

<div>1</div> <div>IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA</div> <div>STATE OF TEXAS, ) Plaintiff, ) VS. ) ERIC R. HOLDER, JR., in ) his official capacity as ) Attorney General of the ) United States, ) Defendant, ) ERIC KENNIE, ET AL, ) Defendant- ) Intervenors, ) TEXAS STATE CONFERENCE OF ) CASE NO. 1:12-CV-00128 NAACP BRANCHES, ) (RMC-DST-RLW) Defendant- ) Three-Judge Court Intervenors, ) TEXAS LEGISLATIVE BLACK ) CAUCUS, et al, ) Defendant- ) Intervenors, ) VICTORIA RODRIGUEZ, et ) al, ) Defendant- ) Intervenors. )</div> <div>***** ORAL DEPOSITION OF DENNIS BONNEN JUNE 6, 2012 ***** ORAL DEPOSITION OF DENNIS BONNEN, produced as a witness at the instance of the Defendant, and duly sworn, was taken in the above-styled and numbered cause</div>	<div>3</div> <div>A P P E A R A N C E S</div> <div>1 2 3 FOR THE PLAINTIFF: Mr. Reynolds Brissenden 4 OFFICE OF THE ATTORNEY GENERAL OF TEXAS 209 West Eighth Street 5 Austin, Texas 78701 (512) 936-1307 6 7 FOR THE DEFENDANT HOLDER, ET AL: Ms. Risa Berkower 8 Mr. Bruce Gear U.S. DEPARTMENT OF JUSTICE 9 950 Pennsylvania Avenue, NW Washington, DC 20530 (202) 305-7766 10 11 12 FOR THE RODRIGUEZ DEFENDANT-INTERVENORS: Ms. Nina Perales 13 Mr. Luis Orlando Figueroa, Jr. Ms. Karolina Lyznik MALDEF 14 110 Broadway San Antonio, Texas 78205-1910 (210) 224-5476 15 16 17 18 19 20 21 22 23 24 25</div>																																	
<div>2</div> <div>1 on June 6, 2012, from 9:54 a.m. to 7:35 p.m., before 2 Donna Wright, CSR in and for the State of Texas, 3 reported by machine shorthand, at the offices of THE 4 UNITED STATES ATTORNEY, 816 Congress Avenue, Suite 5 1000, Austin, Texas, pursuant to the Federal Rules of 6 Civil Procedure and the provisions stated on the record 7 or attached hereto. 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</div>	<div>4</div> <div>I N D E X</div> <div>1 2 3 Appearances..... 3 4 5 6 DENNIS BONNEN 7 8 Examination by Ms. Berkower..... 7 Examination by Ms. Perales..... 243 9 Examination (Continued) by Ms. Berkower..... 294 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</div> <div>G O V E R N M E N T E X H I B I T S</div> <table><tr><th>NUMBER</th><th>DESCRIPTION</th><th>PAGE</th></tr><tr><td>430</td><td>Notice of Deposition</td><td>13</td></tr><tr><td>431</td><td>Report about Bills Voted on a Committee</td><td>48</td></tr><tr><td>432</td><td>Letter to Rep. Dennis Bonnen from Thomas E. Wheeler, II</td><td>75</td></tr><tr><td>433</td><td>Document Regarding H.B. 1706</td><td>91</td></tr><tr><td>434</td><td>S.B. 362</td><td>113</td></tr><tr><td>435</td><td>Pledge Concerning Voter ID</td><td>124</td></tr><tr><td>436</td><td>H.B. 3556</td><td>130</td></tr><tr><td>437</td><td>Correspondence Between Representative Bonnen and Kathy Rogers</td><td>142</td></tr><tr><td>438</td><td>Interim House Committee Elections Report Filed January 2011</td><td>152</td></tr><tr><td>439</td><td>H.B. 624</td><td>166</td></tr></table>	NUMBER	DESCRIPTION	PAGE	430	Notice of Deposition	13	431	Report about Bills Voted on a Committee	48	432	Letter to Rep. Dennis Bonnen from Thomas E. Wheeler, II	75	433	Document Regarding H.B. 1706	91	434	S.B. 362	113	435	Pledge Concerning Voter ID	124	436	H.B. 3556	130	437	Correspondence Between Representative Bonnen and Kathy Rogers	142	438	Interim House Committee Elections Report Filed January 2011	152	439	H.B. 624	166
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5			7		
1	440	167	1	MS. BERKOWER: Good morning. This is the	
2	Texas Legislature On-Line History		2	case of State of Texas versus Eric Holder, Case	
	for H.B. 624		3	No. 12-CV-128 in the US District Court for the District	
3	441	183	4	of Columbia. This is the deposition of	
	S.B. 14		5	Dennis Bonnen, and today is June 6, 2012.	
4	442	209	6	Do you want appearances of counsel for	
	Insider's Report		7	the record?	
5	443	213	8	THE REPORTER: It's up to you.	
	House Journal		9	MS. BERKOWER: Risa Berkower for the	
6	444	231	10	Attorney General, Eric Holder.	
	Amendment to Bill		11	MR. GEAR: Bruce Gear for the Attorney	
7	445	237	12	General, Eric Holder.	
	Skipped		13	MS. PERALES: Nina Perales for the	
8	446	294	14	Rodriguez defendant-intervenors.	
	Insider's Report dated 3-25-11		15	MR. FIGUEROA: Luis Figueroa for the	
9	477	304	16	Rodriguez intervenors.	
	Post in Fact News dated 1-24-12		17	MS. LYZNIK: Karolina Lyznik for the	
10	448	309	18	Rodriguez defendant-intervenors.	
	Incoming Correspondence from		19	MR. BRISSENDEN: Reynolds Brissenden for	
11	449	310	20	the State of Texas and the witness.	
	Letter dated 4-19-08		21	DENNIS BONNEN,	
12	450	314	22	having being first duly sworn, testified as follows:	
	Letter from Mr. Betony		23	EXAMINATION	
13			24	BY MS. BERKOWER:	
14			25	Q. Okay. Mr. Bonnen, are you represented here by	
15	PREVIOUSLY MARKED EXHIBITS				
16	NUMBER	DESCRIPTION	PAGE		
17	5		237		
18	20	H.B. 14	265		
19	28		93		
20	44	H.B. 218	82		
21		H.B. 1706			
22					
23					
24					
25					

6			8		
1	RODRIGUEZ EXHIBITS		1	counsel today?	
2	NUMBER	DESCRIPTION	2	A. Yes, ma'am.	
3	30		3	Q. Who is that?	
		Memo to Members of Committee	4	A. Reynolds.	
4	31		5	Q. When did the representation begin?	
		Transcript of Hearings	6	A. I don't know.	
5	32		7	Q. Is it safe to say it began with this lawsuit?	
		Committee Report for SB 2362	8	A. Yes.	
6	33		9	Q. Okay. So you've been placed under oath today.	
		House Research Organization Bill	10	It's important to testify truthfully, accurately, and	
7	34		11	completely as a result. The court reporter will	
		Analysis for S.B. 14	12	prepare a transcript of everything that is said today,	
8	35		13	so please respond to the questions verbally. No	
		Page from House Journal dated 4-8-11	14	shaking your head or nodding because that can't be	
9	36		15	recorded.	
			16	Please wait for me to finish my question	
10	37		17	before you answer, and I'll try to do the same. It	
		Correspondence with Representative	18	makes for a clearer record that way. I'll try to ask	
11	38		19	you clear questions. If you don't understand a	
		Bonnen's Office	20	question, speak up and let me know. If you wish to	
12		Letter to Mr. Murphy	21	stop and take a break, let me know, and I will try to	
13			22	accommodate you. But we will try to keep our breaks	
14			23	relatively short in the interest of moving the day	
15			24	along.	
16			25	From time to time your attorney may make	
17					
18					
19					
20					
21					
22					
23					
24					
25					

<p style="text-align: center;">9</p> <p>1 an objection. He's making these objections for the</p> <p>2 record unless he -- and unless he instructs you not to</p> <p>3 answer the question, you can go ahead and answer</p> <p>4 anyway.</p> <p>5 If he counsels you to answer only to the</p> <p>6 extent that certain information is not privileged,</p> <p>7 please clarify for the record whether you are --</p> <p>8 whether you are not answering or answering completely</p> <p>9 based on his instructions. That way we have a clear</p> <p>10 record. Does that make sense?</p> <p>11 A. Uh-huh.</p> <p>12 Q. Do you understand these instructions?</p> <p>13 A. Yes, ma'am.</p> <p>14 Q. Do you have any questions about any of these</p> <p>15 instructions?</p> <p>16 A. No.</p> <p>17 Q. So a few more background questions.</p> <p>18 Are you on any medication today that</p> <p>19 would affect your ability to testify?</p> <p>20 A. No.</p> <p>21 Q. Is there any reason why you cannot testify</p> <p>22 truthfully and accurately today?</p> <p>23 A. No.</p> <p>24 Q. If I refer to "you," unless I specify</p> <p>25 otherwise, I'm asking a question about you in your</p>	<p style="text-align: center;">11</p> <p>1 Q. Have you ever been involved in a case where</p> <p>2 the State of Texas was the plaintiff or defendant?</p> <p>3 A. Not that I'm aware of.</p> <p>4 Q. What did you do to prepare for today's</p> <p>5 deposition?</p> <p>6 A. Not much.</p> <p>7 Q. Did you meet with your attorneys?</p> <p>8 A. Briefly.</p> <p>9 Q. Who did you meet with?</p> <p>10 A. I met with Reynolds and one other gentleman.</p> <p>11 MR. BRISSENDEN: Patrick?</p> <p>12 THE WITNESS: Patrick.</p> <p>13 Q. (BY MS. BERKOWER) Mr. Sweeten?</p> <p>14 A. Yes.</p> <p>15 Q. When did you meet with them?</p> <p>16 A. Monday.</p> <p>17 Q. How long did you meet with them for?</p> <p>18 A. About an hour.</p> <p>19 Q. Was anyone else present?</p> <p>20 A. No. I was greeted by other people, but no one</p> <p>21 else was present.</p> <p>22 Q. Okay. Did you review any documents in</p> <p>23 preparation for today's deposition?</p> <p>24 A. A few, very few.</p> <p>25 Q. What did you review?</p>
<p style="text-align: center;">10</p> <p>1 capacity as a member of the Texas House of</p> <p>2 Representatives. Do you understand?</p> <p>3 A. Yes, ma'am.</p> <p>4 Q. And if I refer to "you," I also mean to</p> <p>5 include anyone in your office or anyone acting on your</p> <p>6 behalf. Do you understand?</p> <p>7 A. Yes.</p> <p>8 Q. I may use the terms "voter ID" and "photo ID"</p> <p>9 interchangeably during this deposition. I want you to</p> <p>10 interpret the terms broadly to mean a requirement by a</p> <p>11 voter to present a form of identification, whether it</p> <p>12 has a photo or otherwise, when voting in person before</p> <p>13 being permitted to vote a regular ballot. Does that</p> <p>14 make sense?</p> <p>15 A. Yes.</p> <p>16 Q. When I refer to the term "minority voters," I</p> <p>17 mean voters who are nonwhite and non-Anglo. Do you</p> <p>18 understand these terms?</p> <p>19 A. Yes.</p> <p>20 Q. If you have any questions about what I mean,</p> <p>21 please ask.</p> <p>22 So have you ever been deposed before?</p> <p>23 A. No.</p> <p>24 Q. Have you ever been a party in litigation?</p> <p>25 A. No, I don't believe so.</p>	<p style="text-align: center;">12</p> <p>1 A. I don't recall specifically.</p> <p>2 Q. Is it safe to say they were documents related</p> <p>3 to voter ID legislation in the Texas Legislature?</p> <p>4 A. Generally speaking, yes.</p> <p>5 Q. Other than your attorneys, did you speak to</p> <p>6 anyone about your deposition today?</p> <p>7 A. You know, short of my wife, no.</p> <p>8 Q. Did you speak to anyone on your staff about</p> <p>9 your deposition today?</p> <p>10 A. In the regard that they helped do document</p> <p>11 preparation and things of that sort.</p> <p>12 Q. But did you talk to them specifically about</p> <p>13 coming here today to be deposed?</p> <p>14 A. Certainly they know I'm here, yes.</p> <p>15 Q. So what was the nature of your conversation?</p> <p>16 A. The fact that they keep my schedule and had to</p> <p>17 make sure I knew where to be and when.</p> <p>18 Q. Okay. Anything about the substance of what</p> <p>19 you were going to be discussing today?</p> <p>20 A. No.</p> <p>21 Q. Did you speak to anyone else in the Texas</p> <p>22 Legislature about your deposition today?</p> <p>23 A. Only in the fact that I ran into</p> <p>24 Representative Aliseda in the lobby this morning and we</p> <p>25 both exchanged greetings and acknowledged we both were</p>



<p style="text-align: center;">13</p> <p>1 here to be deposed.</p> <p>2 Q. Did you talk about the substance of what you</p> <p>3 were going to say?</p> <p>4 A. No, ma'am.</p> <p>5 Q. Any other conversations with other Texas</p> <p>6 Legislatures?</p> <p>7 A. No.</p> <p>8 Q. Have you spoken to anyone who has already been</p> <p>9 deposed in this case about your deposition today?</p> <p>10 A. No.</p> <p>11 Q. So just to close the loop, is there anyone</p> <p>12 else you've spoken with about your deposition today?</p> <p>13 A. Not that I can recall and not of any substance</p> <p>14 that I can remember.</p> <p>15 Q. Did you bring any notes or documents with you</p> <p>16 today?</p> <p>17 A. I did not.</p> <p>18 Q. Okay. This will be Exhibit 430.</p> <p>19 (Exhibit No. 430 marked)</p> <p>20 Q. (BY MS. BERKOWER) Do you recognize this?</p> <p>21 A. I guess. I mean --</p> <p>22 Q. Well, take a second to --</p> <p>23 A. I understand what it is, but it's not</p> <p>24 something I personally reviewed.</p> <p>25 Q. Well, take a minute to review it now.</p>	<p style="text-align: center;">15</p> <p>1 these kinds of documents?</p> <p>2 A. Filing cabinets in the office, electronically</p> <p>3 on the computer, in the district office and the Capitol</p> <p>4 office.</p> <p>5 Q. For the electronic files is there a particular</p> <p>6 location on the network that you usually keep these</p> <p>7 kinds of documents?</p> <p>8 A. Specifically, I'm not aware. If there is a</p> <p>9 specific spot, I don't know.</p> <p>10 Q. When did you search for the documents?</p> <p>11 A. When they were requested. I don't know the</p> <p>12 exact date, but whenever -- pretty immediately</p> <p>13 thereafter the request was made.</p> <p>14 Q. In the last few weeks maybe?</p> <p>15 A. I think it was longer ago than that, actually.</p> <p>16 Q. Okay.</p> <p>17 A. It was pretty immediately after the request.</p> <p>18 And there may have been a second request that we were</p> <p>19 asked to look at yet again.</p> <p>20 Q. Did you look for any document -- any relevant</p> <p>21 documents specified in Attachment A in your home, on</p> <p>22 your home computer or home office files?</p> <p>23 A. No, I did not, because I don't -- I do not</p> <p>24 have those documents at home or on a home computer.</p> <p>25 Q. Do you -- you said you have more than one</p>
<p style="text-align: center;">14</p> <p>1 A. Okay. (Reading).</p> <p>2 Q. Okay?</p> <p>3 A. Sure.</p> <p>4 Q. Do you know what this is?</p> <p>5 A. It is a notice of deposition.</p> <p>6 Q. Who is it a notice of deposition for?</p> <p>7 A. Myself.</p> <p>8 Q. Can I direct your attention to Attachment A,</p> <p>9 please?</p> <p>10 A. Okay.</p> <p>11 Q. Did you undertake a search for the documents</p> <p>12 specified in Attachment A?</p> <p>13 A. I worked with the staff in my office to do a</p> <p>14 very thorough search for all these documents.</p> <p>15 Q. Can you describe the search, please?</p> <p>16 A. You know, I don't know exactly how you would</p> <p>17 want it described. We reviewed everything that would</p> <p>18 fall under this request.</p> <p>19 Q. Did you look through paper files?</p> <p>20 A. We looked through paper files and electronic</p> <p>21 files, all files.</p> <p>22 Q. Anywhere else you searched for the documents?</p> <p>23 A. We searched everywhere that they would be.</p> <p>24 Q. Okay. And where would that be, just as a</p> <p>25 general matter for your office? Where do you keep</p>	<p style="text-align: center;">16</p> <p>1 office. How many offices do you have?</p> <p>2 A. I have a district office in my district in</p> <p>3 Angleton, Texas, and I have a Capitol office.</p> <p>4 Q. And you conducted this search in both offices?</p> <p>5 A. That's correct.</p> <p>6 Q. Did you produce documents to your attorney</p> <p>7 after concluding the search?</p> <p>8 A. We did.</p> <p>9 Q. When did you do that?</p> <p>10 A. I don't know exactly.</p> <p>11 Q. Is it safe to say it was shortly after you</p> <p>12 finished the search?</p> <p>13 A. Yes. Yes.</p> <p>14 Q. Okay. Did you discuss asserting a privilege</p> <p>15 over these documents with your attorney?</p> <p>16 MR. BRISSENDEN: I'm going to instruct</p> <p>17 the question -- I'm going to object to the question.</p> <p>18 It calls for attorney/client privilege and instruct the</p> <p>19 witness not to answer, divulge, or disclose</p> <p>20 communications with counsel.</p> <p>21 MS. BERKOWER: The witness is allowed to</p> <p>22 speak to general topics that he's covered with his</p> <p>23 attorney.</p> <p>24 MR. BRISSENDEN: Maybe if you would</p> <p>25 rephrase the question it would help.</p>



<p style="text-align: center;">17</p> <p>1 MS. BERKOWER: I just said, "Did you</p> <p>2 discuss asserting privilege?" I did not indicate what</p> <p>3 the advice was.</p> <p>4 Do you withdraw your objection?</p> <p>5 MR. BRISSENDEN: I'll allow him to answer</p> <p>6 the question in a general manner.</p> <p>7 Q. (BY MS. BERKOWER) Do you need me to repeat</p> <p>8 the question?</p> <p>9 A. Would you rephrase your question?</p> <p>10 Q. Did you discuss asserting privilege over the</p> <p>11 documents you produced to your attorneys?</p> <p>12 A. No.</p> <p>13 Q. How do you usually communicate with your</p> <p>14 staff?</p> <p>15 A. Verbally.</p> <p>16 Q. Do you ever e-mail them?</p> <p>17 A. Very rarely.</p> <p>18 Q. When do you e-mail them, as a general matter?</p> <p>19 A. When?</p> <p>20 Q. Well, like what context? You can't -- you</p> <p>21 have two offices, so you can't see all your staff in</p> <p>22 person all the time.</p> <p>23 A. On the phone. I mean, I speak to them. I'm</p> <p>24 dyslexic. I don't e-mail very easily.</p> <p>25 Q. Okay.</p>	<p style="text-align: center;">19</p> <p>1 A. I guess my chief of staff and other staff</p> <p>2 members and I talk about whether we need to keep</p> <p>3 something, or they decide. I guess, generally</p> <p>4 speaking, constituent correspondence that would be</p> <p>5 ongoing we would keep.</p> <p>6 Q. Is there any one person in your office who's</p> <p>7 generally responsible for document retention?</p> <p>8 A. No.</p> <p>9 Q. And so just to be clear, do you have a</p> <p>10 specific record retention policy in your office?</p> <p>11 A. No.</p> <p>12 Q. Have you ever implemented a litigation hold in</p> <p>13 your office?</p> <p>14 A. I do not know.</p> <p>15 Q. Do you know who would know?</p> <p>16 A. Not really, no.</p> <p>17 Q. Do you ever maintain any files specific to</p> <p>18 particular pieces of legislation?</p> <p>19 A. Yes.</p> <p>20 Q. When do you do that?</p> <p>21 A. During session.</p> <p>22 Q. Do you ever maintain those files after the</p> <p>23 session ends?</p> <p>24 A. I'm not certain.</p> <p>25 Q. Who would know the answer to that question?</p>
<p style="text-align: center;">18</p> <p>1 A. So I'm very verbal.</p> <p>2 Q. Okay.</p> <p>3 A. So most responses to e-mails from me are</p> <p>4 either "yes" or "no" or rather brief and rather short</p> <p>5 or I make a phone call.</p> <p>6 Q. So do you usually communicate with your staff</p> <p>7 either in person or over the phone?</p> <p>8 A. Most usually.</p> <p>9 Q. How are documents maintained in your office,</p> <p>10 to your knowledge?</p> <p>11 A. My knowledge is somewhat limited on that, but</p> <p>12 my understanding is that basically weekly e-mail</p> <p>13 correspondence is -- or immediately, but is either</p> <p>14 saved and properly filed or deleted.</p> <p>15 Q. Do you have a retention policy in your office?</p> <p>16 A. We do in the regard that they hold -- you</p> <p>17 know, they keep things that need to be saved. And</p> <p>18 those that do not are deleted. And then within, I</p> <p>19 believe, 30 days they're deleted off the legislative</p> <p>20 council system.</p> <p>21 Q. How do you decide what should be saved versus</p> <p>22 deleted?</p> <p>23 A. I don't really know.</p> <p>24 Q. Is there someone in your office who would</p> <p>25 know?</p>	<p style="text-align: center;">20</p> <p>1 A. I guess my chief of staff.</p> <p>2 Q. Who is that?</p> <p>3 A. Shera Eichler.</p> <p>4 Q. Did you maintain any files specific to</p> <p>5 S.B. 362 in the 81st Legislature?</p> <p>6 A. I would assume we did.</p> <p>7 Q. Do you know if you still have those files?</p> <p>8 A. I do not know.</p> <p>9 Q. Do you think that you still have those files?</p> <p>10 A. In complete honesty, I don't really know.</p> <p>11 Q. What about S.B. 14 from the 82nd Legislature,</p> <p>12 did you maintain any files specific to that piece of</p> <p>13 legislation?</p> <p>14 A. I don't know. We probably would not have had</p> <p>15 a file being I did not carry that bill.</p> <p>16 Q. Do you maintain files on your -- on your</p> <p>17 network drive concerning particular -- any particular</p> <p>18 legislation?</p> <p>19 A. I don't.</p> <p>20 Q. Have you ever archived e-mail concerning</p> <p>21 particular legislation?</p> <p>22 A. I believe they -- I don't know how they</p> <p>23 exactly do that. I don't know if they save e-mail</p> <p>24 specific to legislation or specific to the constituent.</p> <p>25 Probably both.</p>



<p style="text-align: center;">21</p> <p>1 Q. Who would know the answer to that question?</p> <p>2 A. Someone in my office.</p> <p>3 Q. Would that be Shera Eichler again?</p> <p>4 A. Possibly.</p> <p>5 Q. Anybody else in particular you think would</p> <p>6 know the answer to that question?</p> <p>7 A. Possibly her or -- I guess she would know</p> <p>8 maybe.</p> <p>9 Q. What searches exactly were conducted for</p> <p>10 documents prior to this deposition?</p> <p>11 A. I don't know exactly.</p> <p>12 Q. During the legislative session, how often do</p> <p>13 you communicate with your staff generally?</p> <p>14 A. Daily.</p> <p>15 Q. Do you also communicate with other legislators</p> <p>16 daily?</p> <p>17 A. Not every day, but the days that I would be in</p> <p>18 Austin I would probably run into a legislator.</p> <p>19 Q. How often during the week of the legislative</p> <p>20 session do you communicate with your staff via e-mail?</p> <p>21 A. Do you mean them e-mailing me or me e-mailing</p> <p>22 them?</p> <p>23 Q. Either one.</p> <p>24 A. They probably e-mail me frequently and I</p> <p>25 probably e-mail them infrequently.</p>	<p style="text-align: center;">23</p> <p>1 Q. Do you ever exchange text messages with your</p> <p>2 staff?</p> <p>3 A. Rarely.</p> <p>4 Q. When, in your memory, have you exchanged text</p> <p>5 messages with your staff?</p> <p>6 A. Well, I mean, we do text. Over the last</p> <p>7 couple of years, just as every other normal person uses</p> <p>8 text. But we use it less than most because, as I've</p> <p>9 stated, I don't really like writing.</p> <p>10 Q. Have you ever texted your staff from the floor</p> <p>11 of the House?</p> <p>12 A. I guess it's safe to say I probably have.</p> <p>13 Q. Do you remember when that happened?</p> <p>14 A. Not specifically, no.</p> <p>15 Q. When you talk with your staff do you use an</p> <p>16 official government phone or your personal phone?</p> <p>17 A. Personal.</p> <p>18 Q. And when you communicate with them by e-mail,</p> <p>19 do you use official government accounts or personal</p> <p>20 accounts?</p> <p>21 A. Personal.</p> <p>22 Q. When you conducted the search of documents</p> <p>23 relevant to Attachment A, did you check your personal</p> <p>24 e-mail account for any e-mails that might be relevant?</p> <p>25 A. I believe we did.</p>
<p style="text-align: center;">22</p> <p>1 Q. In a given day what does "frequently" mean,</p> <p>2 just to approximate?</p> <p>3 A. And you're speaking this session?</p> <p>4 Q. Yes.</p> <p>5 A. Actually, they may -- you know, not to be</p> <p>6 difficult, probably on days that I'm in town, it's less</p> <p>7 versus days that I'm not in town, it's probably more.</p> <p>8 Q. Is that because you're able to talk to them in</p> <p>9 person then?</p> <p>10 A. Correct.</p> <p>11 Q. Would you say it's ten e-mails when you are</p> <p>12 not there?</p> <p>13 A. I doubt it's ten.</p> <p>14 Q. Less than ten?</p> <p>15 A. Most likely, yes.</p> <p>16 Q. And when you are not in Austin is it less than</p> <p>17 ten e-mails a day?</p> <p>18 A. Certainly.</p> <p>19 Q. How many phone calls do you have a day when</p> <p>20 you're not in Austin, with your staff here in Austin?</p> <p>21 A. Maybe one.</p> <p>22 Q. How long would that call last? Is it like a</p> <p>23 long call where you sort of discuss everything or --</p> <p>24 A. Maybe 30 minutes. It just -- it -- but</p> <p>25 obviously it would vary.</p>	<p style="text-align: center;">24</p> <p>1 Q. You're not sure, though?</p> <p>2 A. I'm pretty certain we did. I don't know if</p> <p>3 it's of importance, but my personal e-mail also was --</p> <p>4 I had to start over with that about a year ago due to</p> <p>5 some weird virus.</p> <p>6 Q. Okay. Will you be invoking any privileges</p> <p>7 during your deposition today?</p> <p>8 A. Yes.</p> <p>9 Q. Which ones?</p> <p>10 A. Legislative privilege and attorney/client</p> <p>11 privilege.</p> <p>12 Q. Anything else?</p> <p>13 A. I certainly would reserve the right, but I</p> <p>14 don't know.</p> <p>15 Q. Have you asserted any privileges over</p> <p>16 documents and other materials in your possession or in</p> <p>17 the possession of your staff members that relate to</p> <p>18 voter identification legislation?</p> <p>19 A. I think we have, yes.</p> <p>20 Q. And what -- can you be more specific, if you</p> <p>21 know what in particular you --</p> <p>22 A. I think we've used the legislative privilege.</p> <p>23 Q. Would that be over documents that you've</p> <p>24 produced pursuant to the searches you conducted?</p> <p>25 A. I believe that's correct.</p>





<p style="text-align: center;">25</p> <p>1 Q. Do you know if any documents that relate to</p> <p>2 voter identification that you located in your office</p> <p>3 have been withheld from production as a result of your</p> <p>4 assertion of privilege?</p> <p>5 MR. BRISSENDEN: I'll instruct you, to</p> <p>6 the extent you can answer the question, go ahead,</p> <p>7 without divulging or disclosing communications that</p> <p>8 you've had with myself and with Patrick and other</p> <p>9 attorneys at the Attorney General's office, if you can</p> <p>10 answer the question.</p> <p>11 MS. BERKOWER: I just asked if he knew if</p> <p>12 any documents had been withheld. I did not ask what</p> <p>13 documents or why.</p> <p>14 THE WITNESS: Right. I believe some</p> <p>15 were, due to privilege.</p> <p>16 Q. (BY MS. BERKOWER) Can you explain why you're</p> <p>17 asserting the legislative privilege today?</p> <p>18 MR. BRISSENDEN: Again, the instruction</p> <p>19 will be the same. If you can answer the question</p> <p>20 without disclosing privileged communications that</p> <p>21 you've had with your attorneys, myself included, you</p> <p>22 may answer. Otherwise, I instruct you not to answer.</p> <p>23 THE WITNESS: Because it's a privilege</p> <p>24 that exists and it's a right that we have, and I think</p> <p>25 it's important.</p>	<p style="text-align: center;">27</p> <p>1 A. Do you mean jobs where I was paid or -- not to</p> <p>2 be difficult, but -- or internships also or --</p> <p>3 Q. I guess just start right when you graduated,</p> <p>4 and I'll let you know if we can skip over a few.</p> <p>5 A. Okay. My first job was with the Can</p> <p>6 Manufacturers Institute in Washington, D.C. I left</p> <p>7 there to return home to run for office and worked for</p> <p>8 Master Data Systems, I believe, or Services. I forget</p> <p>9 what we called the company, an Internet-providing</p> <p>10 company.</p> <p>11 From there I worked for Neal Insurance.</p> <p>12 I guess, technically speaking, during that period, I</p> <p>13 guess, even though at \$600 a month, I got the</p> <p>14 employment under the State of Texas as a state</p> <p>15 representative.</p> <p>16 I then worked, after Neal Insurance, for</p> <p>17 Trinity Industries -- actually, Trinity Aggregates, a</p> <p>18 subsidiary of Trinity Industries. And then I started</p> <p>19 Bonnen Clawson Insurance and -- actually, Bonnen</p> <p>20 Clawson might have been before Trinity. I can't</p> <p>21 remember. I apologize.</p> <p>22 And then I worked for First Community</p> <p>23 Bank. First Community Bank was sold to Wells Fargo and</p> <p>24 I worked for Wells Fargo. I then left Wells Fargo and</p> <p>25 briefly worked for Moody Bank and then began Heritage</p>
<p style="text-align: center;">26</p> <p>1 Q. (BY MS. BERKOWER) Would you consider waiving</p> <p>2 the privilege today?</p> <p>3 A. No.</p> <p>4 Q. If you would like to waive the privilege in</p> <p>5 response to a particular question that I ask during</p> <p>6 this deposition, will you say so?</p> <p>7 A. If I choose to, sure.</p> <p>8 Q. Could you describe your educational</p> <p>9 background?</p> <p>10 A. In what regard?</p> <p>11 Q. Just generally.</p> <p>12 A. I graduated from Angleton High School in 1990,</p> <p>13 and then went to St. Edward's University and graduated</p> <p>14 in 1994.</p> <p>15 Q. What did you study when you were in college?</p> <p>16 A. I guess you mean my major?</p> <p>17 Q. Sure.</p> <p>18 A. Okay. Political science, among other -- you</p> <p>19 know, I obviously took a full required course.</p> <p>20 Q. Did you do any graduate work?</p> <p>21 A. No.</p> <p>22 Q. Can you list all the jobs you've had since you</p> <p>23 graduated from college?</p> <p>24 A. Sure.</p> <p>25 Q. Do you mind doing that?</p>	<p style="text-align: center;">28</p> <p>1 Bank Corp. And, in turn, I worked for Heritage Bancorp</p> <p>2 and Heritage Bank, which is a wholly-owned subsidiary</p> <p>3 of the Bancorp that we traded. And I'm presently</p> <p>4 employed by Heritage Bank and the -- I guess,</p> <p>5 technically, the Texas House of Representatives.</p> <p>6 Q. So what type -- what type of work do you do</p> <p>7 for the bank?</p> <p>8 A. I am chairman of the board, CEO, and president</p> <p>9 of the bank.</p> <p>10 Q. What made you decide to run for office</p> <p>11 initially?</p> <p>12 A. Do you want the short answer or the long</p> <p>13 answer?</p> <p>14 Q. How long is the short answer?</p> <p>15 A. I ran -- no offense to pretty much all but you</p> <p>16 and me in the room, because my family had been very</p> <p>17 involved with our local community and I had been raised</p> <p>18 to involve yourself in the local community, be</p> <p>19 supportive and volunteer. And there were some</p> <p>20 attorneys who were running -- who were running, in my</p> <p>21 view, to promote and enhance the prestige of the local</p> <p>22 firm and practice.</p> <p>23 And so I ran because I had been taught to</p> <p>24 give back and to be supportive and involved in the</p> <p>25 local community. And so that's why I ran.</p>



<p style="text-align: center;">29</p> <p>1 Q. And you moved back from Washington, D.C. to</p> <p>2 run?</p> <p>3 A. Correct.</p> <p>4 Q. You were the youngest House member when you</p> <p>5 first won; is that correct?</p> <p>6 A. Well, at -- during that session, yes, at the</p> <p>7 time. I was not the youngest historically.</p> <p>8 Q. So what year were you first elected to the</p> <p>9 House?</p> <p>10 A. It was the '96 election cycle, and I was sworn</p> <p>11 in, I guess, January of '97.</p> <p>12 Q. What are the demographics of your district?</p> <p>13 A. I don't know.</p> <p>14 Q. Have you ever known?</p> <p>15 A. Have I ever reviewed them on a website, yes.</p> <p>16 But have I ever probably had that information where I</p> <p>17 could regurgitate it, no.</p> <p>18 Q. And I should have asked this before.</p> <p>19 A. That's okay.</p> <p>20 Q. Which district do you represent?</p> <p>21 A. District 25.</p> <p>22 Q. Where is that located?</p> <p>23 A. Well, presently it is basically Southern</p> <p>24 Brazoria County. But from re-districting, it will,</p> <p>25 moving forward, include Matagorda County for the first</p>	<p style="text-align: center;">31</p> <p>1 A. Jessica Effenberger, who I believe started in</p> <p>2 February of this year, somewhere around there.</p> <p>3 Steven Schar, who started with us after last session at</p> <p>4 some point. And then Shera Eichler, who's been with</p> <p>5 me -- I don't know -- eight years or so, eight or</p> <p>6 nine years.</p> <p>7 Q. Do they work in both the district office and</p> <p>8 the Capitol office?</p> <p>9 A. Not really. Jessica Effenberger is in the</p> <p>10 district office and Shera Eichler and Steven Schar are</p> <p>11 in the Capitol office. Obviously, there are rare</p> <p>12 occasions where they maybe travel to one or the other,</p> <p>13 but that's very rare.</p> <p>14 Q. Could you list each and every person who's</p> <p>15 voted on voter ID legislation from your office from</p> <p>16 2005 to the present?</p> <p>17 A. I will certainly try. I will probably not do</p> <p>18 it effectively, but I will try. Shera Eichler</p> <p>19 certainly has worked on it. I guess Steven Schar has.</p> <p>20 Gosh, you know, going back to '05, I don't even know.</p> <p>21 I apologize.</p> <p>22 Q. What about --</p> <p>23 A. Certainly if we pulled a roster of staff I</p> <p>24 could tell you.</p> <p>25 Q. What about if we focus just on the 81st and</p>
<p style="text-align: center;">30</p> <p>1 time.</p> <p>2 Q. How big is your district, population-wise.</p> <p>3 A. Gosh, presently -- I don't know. Presently</p> <p>4 it's probably around, as we sit today, 140,000 -- well,</p> <p>5 maybe more like 130,000.</p> <p>6 Q. Was it -- has it grown a lot in the time that</p> <p>7 you've represented it?</p> <p>8 A. Let me think about this. That's a little</p> <p>9 difficult to answer because in the late '90s it did</p> <p>10 grow a lot because I had the north end of Brazoria</p> <p>11 County.</p> <p>12 In the 2000 and 2001 redistricting, I no</p> <p>13 longer retained the north end of the county and</p> <p>14 remained in the southern end of the county. And in the</p> <p>15 last decade the district actually shrunk slightly. So</p> <p>16 in the beginning of my tenure, I guess you could say it</p> <p>17 grew a fair amount, and then in the last ten years due</p> <p>18 to the change of the makeup of the district it was</p> <p>19 really probably more flat with maybe a slight decline.</p> <p>20 Q. How many staff do you have?</p> <p>21 A. Three.</p> <p>22 Q. Does that include both the district office and</p> <p>23 the Austin office?</p> <p>24 A. Correct.</p> <p>25 Q. Who are those staff members?</p>	<p style="text-align: center;">32</p> <p>1 82nd Legislative Sessions?</p> <p>2 A. Sure.</p> <p>3 Q. Who worked on it in those sessions, do you</p> <p>4 remember?</p> <p>5 A. Shera Eichler definitely would have.</p> <p>6 Linda Winder would have in a limited extent in that</p> <p>7 Linda Winder was in the district office. Actually, in</p> <p>8 all fairness, Linda wouldn't have worked on</p> <p>9 legislation. She would have more dealt with</p> <p>10 constituent comments and issues.</p> <p>11 I apologize. I'm trying to think who --</p> <p>12 oh, I guess Carson Hooks may have worked on it. He, I</p> <p>13 believe, worked the '09 session.</p> <p>14 Q. What was his position with you in the</p> <p>15 2009 session?</p> <p>16 A. Legislative staff.</p> <p>17 Q. And what was Ms. Winder's position with you?</p> <p>18 A. District assistant and district director. She</p> <p>19 wouldn't have worked specifically on legislation. She</p> <p>20 would have, as I stated, more done correspondence with</p> <p>21 constituents and things of that sort.</p> <p>22 Q. But Mr. Hooks would have worked on</p> <p>23 legislation?</p> <p>24 A. To some extent, sure.</p> <p>25 Q. Did you recently campaign for office?</p>





<p style="text-align: center;">33</p> <p>1 A. No, not really.</p> <p>2 Q. What do you mean by that?</p> <p>3 A. I was lucky enough to be unopposed.</p> <p>4 Q. Was that in the election on May 29th?</p> <p>5 A. Correct. And in November.</p> <p>6 Q. You were also unopposed in November?</p> <p>7 A. Correct.</p> <p>8 Q. So what was the extent of any campaign that</p> <p>9 you did?</p> <p>10 A. In my mind, I did no campaigning, to be candid</p> <p>11 and honest. I certainly went to community events,</p> <p>12 civic events and was involved in the community. But I</p> <p>13 don't consider that -- that's more my responsibility as</p> <p>14 a representative and things I do year in and year out</p> <p>15 regardless of campaign or not.</p> <p>16 So from a true campaigning election</p> <p>17 perspective, I did really nothing and simply did my</p> <p>18 normal activities in being a positive representative</p> <p>19 involved in his local community as I should be.</p> <p>20 Q. When is the last time you had to campaign</p> <p>21 against an opponent?</p> <p>22 A. I don't know. I guess maybe six years ago.</p> <p>23 And probably then it was not much of one.</p> <p>24 Q. Do you remember if voter identification was an</p> <p>25 issue in that campaign?</p>	<p style="text-align: center;">35</p> <p>1 Q. Do you usually vote in person?</p> <p>2 A. Not to be ignorant, but when you say "in</p> <p>3 person," you mean -- obviously, I'm not allowed to vote</p> <p>4 by mail. So you mean early or on election day,</p> <p>5 correct?</p> <p>6 Q. Yes.</p> <p>7 A. Yes, absolutely.</p> <p>8 Q. When you have gone in person to vote, have you</p> <p>9 ever witnessed anyone trying to impersonate another</p> <p>10 voter?</p> <p>11 A. No.</p> <p>12 Q. Have you ever witnessed a noncitizen trying to</p> <p>13 vote?</p> <p>14 A. Not that I would be aware of. But I pretty</p> <p>15 much stick to myself and leave people alone when I'm</p> <p>16 voting, as you should.</p> <p>17 Q. So maybe the next question you've already</p> <p>18 answered, but have you ever challenged a voter's</p> <p>19 eligibility at the polls?</p> <p>20 A. Have I? No.</p> <p>21 Q. Have you ever seen it happen?</p> <p>22 A. Well, no.</p> <p>23 Q. Have you ever served on any committees in the</p> <p>24 House that have handled election issues?</p> <p>25 A. Yes, I guess I have.</p>
<p style="text-align: center;">34</p> <p>1 A. I don't think it was. I've not had much of a</p> <p>2 campaign.</p> <p>3 Q. When is the last time you voted?</p> <p>4 A. I guess it would be May 29th.</p> <p>5 Q. Did you vote in person that day?</p> <p>6 A. No, I voted early, in person early.</p> <p>7 Q. So in person early for the May 29th election?</p> <p>8 A. Correct.</p> <p>9 Q. How far is your polling place from where you</p> <p>10 live?</p> <p>11 A. It depends on which one they're sending me to</p> <p>12 that day. I guess -- well, to be clear, do you mean</p> <p>13 the one that I used for early voting or the one that</p> <p>14 would be used on the day of the election?</p> <p>15 Q. Well, I guess both. Just first, where is your</p> <p>16 early voting location and how far is it located from</p> <p>17 your house?</p> <p>18 A. I don't know exactly by miles. It's on the</p> <p>19 other side of town. But I live in a town of about</p> <p>20 19,000, so the other side is not significantly far.</p> <p>21 It's probably -- please don't hold me to this. I'm</p> <p>22 guessing -- five to ten miles at the most for the early</p> <p>23 voting pole.</p> <p>24 The election day location is probably,</p> <p>25 you know, three miles away.</p>	<p style="text-align: center;">36</p> <p>1 Q. What are those?</p> <p>2 A. I guess in 2009 I was on the elections</p> <p>3 committee, and then last session I guess the select</p> <p>4 committee. In the 11th session, the select committee I</p> <p>5 chaired, that only handled one issue.</p> <p>6 Q. What's the name of that committee?</p> <p>7 A. I apologize. I'm not even sure. It's the</p> <p>8 select committee on -- I don't know.</p> <p>9 Q. Voter identification and voter fraud maybe?</p> <p>10 A. You're exactly right.</p> <p>11 Q. Okay.</p> <p>12 A. I'm not trying to be -- I just --</p> <p>13 Q. Were you also on a House select committee on</p> <p>14 election contests?</p> <p>15 A. Oh, I apologize. Yes. Yes, I was. Well, I</p> <p>16 don't know if it was -- you would know. I'm sure</p> <p>17 you've done your homework. It was on a specific</p> <p>18 contest, not broadly speaking.</p> <p>19 Q. Okay. I was going to ask you exactly what</p> <p>20 that committee was.</p> <p>21 A. It -- well, now I'm going to screw up, but to</p> <p>22 the best of my ability I will describe it. We have a</p> <p>23 process in Texas that I will screw up royally. But to</p> <p>24 my knowledge, or to my limited understanding, after the</p> <p>25 election, if there has been, I guess, a recount and</p>



<p style="text-align: center;">37</p> <p>1 someone chooses to continue in a legislative race -- I</p> <p>2 think it's only a legislative race -- I could be wrong</p> <p>3 about that, though -- chooses to contest that race,</p> <p>4 chooses to continue the -- to question the outcome, the</p> <p>5 validity of that, they are able to then take that to</p> <p>6 the Texas Legislature.</p> <p>7 And that committee was created to review</p> <p>8 the election in question, which I don't remember the</p> <p>9 House district. I know it was an Austin district,</p> <p>10 Travis County, and that we sided with the -- we sided</p> <p>11 against the Republican candidate who brought the</p> <p>12 contest and sided with the Democratic candidate, who</p> <p>13 was Donna Howard.</p> <p>14 Q. What years did you serve on the elections</p> <p>15 committee?</p> <p>16 A. I guess that would be the 2009 session and</p> <p>17 then into the 2010 era.</p> <p>18 Q. Were you on the elections committee in any</p> <p>19 other sessions?</p> <p>20 A. I'm pretty certain I wasn't.</p> <p>21 Q. And what about the select House committee and</p> <p>22 voter identification fraud? What years did you serve</p> <p>23 on that committee?</p> <p>24 A. I guess technically I currently am on it now</p> <p>25 and in 2009.</p>	<p style="text-align: center;">39</p> <p>1 had was the Speaker calling me to tell me that I was</p> <p>2 being put on the committee.</p> <p>3 Q. (BY MS. BERKOWER) Was that the first time you</p> <p>4 had heard about the committee?</p> <p>5 A. I had no clue it existed before then.</p> <p>6 Q. Okay. Have you -- had you had any experience</p> <p>7 in election law prior to serving on the House Elections</p> <p>8 Committee in 2009?</p> <p>9 A. What would you mean by "experience"?</p> <p>10 Q. In any capacity, I guess. Well, you're not an</p> <p>11 attorney --</p> <p>12 A. Right.</p> <p>13 Q. -- so was that your first involvement with</p> <p>14 election law, being on that committee?</p> <p>15 A. I would say that's accurate. Certainly being</p> <p>16 an elected official and going through some campaigns</p> <p>17 and things you have to be aware of some things</p> <p>18 regarding election law. But to suggest that I even be</p> <p>19 on that committee, much less became a particular expert</p> <p>20 on it, wouldn't be entirely accurate.</p> <p>21 Q. Have you ever been the chair of a committee</p> <p>22 relating to election issues?</p> <p>23 A. I guess in 2011 and the select committee.</p> <p>24 Q. So maybe just for ease of reference, when we</p> <p>25 talk about the select committee we'll just be assuming</p>
<p style="text-align: center;">38</p> <p>1 Q. There -- it was in 2009 as well?</p> <p>2 A. I'm sorry. I misspoke. Thank you. 2011. I</p> <p>3 apologize.</p> <p>4 Q. So just the 82nd Legislative Session?</p> <p>5 A. Correct. That's correct.</p> <p>6 Q. How did you come to serve on those committees?</p> <p>7 MR. BRISSENDEN: I'm going to instruct</p> <p>8 you that to the extent that you had communications with</p> <p>9 other legislators about the selection process, your</p> <p>10 appointment to serve on those committees, I instruct</p> <p>11 you not to answer.</p> <p>12 THE WITNESS: I'm simply appointed.</p> <p>13 Q. (BY MS. BERKOWER) Who appointed you?</p> <p>14 A. It is through the committee appointment</p> <p>15 process that the Speaker of the House is responsible</p> <p>16 for.</p> <p>17 Q. Did you have any communications with the</p> <p>18 Speaker of the House about your appointment?</p> <p>19 A. I guess that would be privileged, wouldn't it?</p> <p>20 MR. BRISSENDEN: I'll instruct you --</p> <p>21 same instruction.</p> <p>22 If you can answer the question generally</p> <p>23 without disclosing substance of communications or</p> <p>24 privilege, you may answer.</p> <p>25 THE WITNESS: The only communication I</p>	<p style="text-align: center;">40</p> <p>1 we're referring to the select committee and voter</p> <p>2 identification voter fraud?</p> <p>3 A. Correct, yes, because I don't know the name of</p> <p>4 it.</p> <p>5 Q. Okay. If it turns out that you're referring</p> <p>6 to a different select committee you can just specify.</p> <p>7 A. Absolutely.</p> <p>8 Q. Okay. So what responsibilities does a House</p> <p>9 member have as chair of a committee?</p> <p>10 A. I think the greatest responsibility is to</p> <p>11 ensure that the committee is conducted within the rules</p> <p>12 of the House and that all members and all witnesses and</p> <p>13 all issues are given the highest degree of respect and</p> <p>14 the opportunity to be heard.</p> <p>15 Q. What, in particular, rules -- are there</p> <p>16 particular rules that you're referring to when you say</p> <p>17 the rules of the House have to be respected?</p> <p>18 MR. BRISSENDEN: I'm going to instruct</p> <p>19 you that in terms of your knowledge and experience</p> <p>20 based upon the particular -- your service on a</p> <p>21 particular select committee, if you developed a</p> <p>22 knowledge and experience based upon your service on</p> <p>23 that select committee with regards to voter ID and</p> <p>24 S.B. 14, if that requires you to disclose that</p> <p>25 information in regards to this question, I instruct you</p>

<p style="text-align: center;">41</p> <p>1 not to answer.</p> <p>2 To the extent that you can answer the</p> <p>3 question without disclosing that information based upon</p> <p>4 general experience and in general terms, you may</p> <p>5 answer.</p> <p>6 THE WITNESS: I mean, just -- what I'm</p> <p>7 referring to is simply generally following the rules</p> <p>8 that the House adopts at the beginning of each</p> <p>9 legislative session that govern the practices of the</p> <p>10 Texas House and its committee and its work procedure.</p> <p>11 Q. (BY MS. BERKOWER) And what are the procedures</p> <p>12 in place -- sorry. Let me start that question over.</p> <p>13 A. Sure.</p> <p>14 Q. You said that you felt that as the chairman of</p> <p>15 the -- the chairman of the House committee has the</p> <p>16 responsibility to ensure that everyone has an</p> <p>17 opportunity to be heard.</p> <p>18 A. Uh-huh.</p> <p>19 Q. What procedural -- what procedures are there</p> <p>20 to ensure that everyone has an opportunity to be heard?</p> <p>21 MR. BRISSENDEN: Again, I'm going to</p> <p>22 instruct you that with regards to information,</p> <p>23 experience, knowledge that you have in relation to your</p> <p>24 service on the select committee related to the voter ID</p> <p>25 bill, if it requires you to disclose that information,</p>	<p style="text-align: center;">43</p> <p>1 approve at the beginning of every legislative session.</p> <p>2 Q. (BY MS. BERKOWER) And I think I also had</p> <p>3 asked you a question about what procedures do the House</p> <p>4 rules have to ensure that everyone has an opportunity</p> <p>5 to be heard?</p> <p>6 A. Specifically, I'm -- you know, it's what's in</p> <p>7 the book. I don't have it in front of me.</p> <p>8 Q. Do you remember any of the procedures?</p> <p>9 A. Not off the top of my head.</p> <p>10 Q. So as the chair of the select committee, were</p> <p>11 you familiar with the committee? Just as a general</p> <p>12 matter, do you have familiarity with the committee,</p> <p>13 when it met, the proceedings?</p> <p>14 A. Generally speaking.</p> <p>15 Q. What year was the committee convened?</p> <p>16 A. 2011.</p> <p>17 Q. What was the purpose of convening the</p> <p>18 committee?</p> <p>19 MR. BRISSENDEN: I'm going to instruct</p> <p>20 you, to the extent that that question requires you to</p> <p>21 disclose your thoughts, opinions, mental impressions,</p> <p>22 and analysis about legislation, about the legislative</p> <p>23 act of convening the committee, I'm going to instruct</p> <p>24 you not to answer the question.</p> <p>25 THE WITNESS: I wouldn't know.</p>
<p style="text-align: center;">42</p> <p>1 rules, procedures, I would instruct you not to answer.</p> <p>2 To the extent that you can answer the</p> <p>3 question without disclosing that information in general</p> <p>4 terms, you may answer.</p> <p>5 MS. BERKOWER: I think -- just to be</p> <p>6 clear, I think your objection is a little premature.</p> <p>7 I'm asking him general questions about the House -- the</p> <p>8 responsibilities of a chairman of any committee in the</p> <p>9 House, and generally what the House procedures are to</p> <p>10 ensure.</p> <p>11 MR. BRISSENDEN: Well, I believe your</p> <p>12 question was a little bit more in particular about his</p> <p>13 service. And so if he can -- if he can answer the</p> <p>14 question based on general terms and general procedure,</p> <p>15 I believe that's permissible and I'll allow him to</p> <p>16 answer.</p> <p>17 MS. BERKOWER: I said what</p> <p>18 responsibilities does a member have as chair of a</p> <p>19 committee in the House. That's a general question, and</p> <p>20 I don't think your objection is applicable to that</p> <p>21 question.</p> <p>22 MR. BRISSENDEN: My instruction is the</p> <p>23 same.</p> <p>24 THE WITNESS: Generally speaking, the</p> <p>25 responsibilities are what are in the rule book that we</p>	<p style="text-align: center;">44</p> <p>1 Q. (BY MS. BERKOWER) Why wouldn't you know?</p> <p>2 MR. BRISSENDEN: Same instruction.</p> <p>3 Q. (BY MS. BERKOWER) Are you following the</p> <p>4 advice of counsel and not answering?</p> <p>5 A. Yes, I'm following the advice of counsel.</p> <p>6 Q. Okay. Who convened the committee?</p> <p>7 MR. BRISSENDEN: Same instruction.</p> <p>8 MS. BERKOWER: I think we're allowed to</p> <p>9 ask foundational questions like who convened a</p> <p>10 committee. I think that's also probably in the public</p> <p>11 record. Can he answer to the extent that it's in the</p> <p>12 public record?</p> <p>13 MR. BRISSENDEN: If it's a matter that's</p> <p>14 within public record, information that you have, then</p> <p>15 you can answer.</p> <p>16 THE WITNESS: What do you mean by</p> <p>17 "convened the committee"?</p> <p>18 Q. (BY MS. BERKOWER) Did somebody convene the</p> <p>19 committee or call the committee or create the committee</p> <p>20 in some way? It's not a standing committee, right?</p> <p>21 A. It's in the record when committees are</p> <p>22 announced. This committee was also a part of that</p> <p>23 announcement by the Speaker of the House.</p> <p>24 Q. Okay. What types of legislation did the</p> <p>25 committee hear?</p>



<p style="text-align: center;">45</p> <p>1 A. I believe we heard simply one bill on voter</p> <p>2 ID, Senate Bill 14.</p> <p>3 Q. Was there a reason given in the public record</p> <p>4 as to why that committee was convened?</p> <p>5 A. Maybe. I don't know. I don't recall.</p> <p>6 Q. Can you identify any other committees that</p> <p>7 were formed to consider just one bill?</p> <p>8 A. I wouldn't know.</p> <p>9 Q. Do you remember any during your time in the</p> <p>10 House?</p> <p>11 A. Oh, I'm certain of it, yes.</p> <p>12 Q. Do you remember --</p> <p>13 A. Maybe not one bill, but certainly one issue.</p> <p>14 Q. So in your memory, there were not any other</p> <p>15 committees that were formed to consider just one bill</p> <p>16 during your time in the House?</p> <p>17 A. I'm not saying there weren't. I don't know.</p> <p>18 Q. Well, you don't remember any?</p> <p>19 A. No, I remember -- you're speaking specifically</p> <p>20 to one bill, but committees are not arranged for a</p> <p>21 bill; they're arranged for a subject matter. And there</p> <p>22 have been multiple committees arranged for one specific</p> <p>23 subject matter.</p> <p>24 Q. Did any of those committees consider just one</p> <p>25 bill, to your memory?</p>	<p style="text-align: center;">47</p> <p>1 fast-track committee is.</p> <p>2 Q. (BY MS. BERKOWER) Okay. Were there any bills</p> <p>3 submitted during the 82nd Legislature to address</p> <p>4 mail-in voter fraud?</p> <p>5 A. I do -- I would assume there was, but I don't</p> <p>6 know.</p> <p>7 Q. Were they referred to the select committee?</p> <p>8 A. I do not know for certain.</p> <p>9 Q. I think you said a few minutes ago that the</p> <p>10 select committee considered only one bill.</p> <p>11 A. That would be correct. I'm almost certain</p> <p>12 that's correct. I would have to check the record, but</p> <p>13 I think that's accurate.</p> <p>14 Q. Well, actually, I can --</p> <p>15 A. Yeah, no. That's -- I just don't want to give</p> <p>16 you inaccurate information, but I believe that's right.</p> <p>17 Q. Okay.</p> <p>18 A. Can I visit with Reynolds a moment?</p> <p>19 Q. Yes.</p> <p>20 MR. BRISSENDEN: Do you want to take a</p> <p>21 short break?</p> <p>22 MS. BERKOWER: Sure. Or if -- I'm just</p> <p>23 looking for this exhibit.</p> <p>24 MR. BRISSENDEN: Yeah, just -- no, we</p> <p>25 only need to take a second. I want to visit with him</p>
<p style="text-align: center;">46</p> <p>1 A. I don't know. I would imagine some did, but I</p> <p>2 don't know.</p> <p>3 Q. And I think you said that your committee</p> <p>4 considered just one bill, right?</p> <p>5 A. I'm almost certain of that.</p> <p>6 Q. Are you aware of any communications among</p> <p>7 legislators concerning the creation of a special</p> <p>8 committee?</p> <p>9 A. No.</p> <p>10 Q. Does the Speaker also assign members to the</p> <p>11 committee?</p> <p>12 A. That is the Speaker's responsibility, yes.</p> <p>13 Q. Was the select committee a fast-track</p> <p>14 committee?</p> <p>15 MR. BRISSENDEN: Objection, vague.</p> <p>16 To the extent that you can answer the</p> <p>17 question based upon information that you have -- or</p> <p>18 knowledge that you have from the public record that's</p> <p>19 contained therein, you may answer. To the extent that</p> <p>20 you have knowledge, information based upon information</p> <p>21 not in the public record or that you learned from</p> <p>22 communications with other legislators, legislators'</p> <p>23 staff, your own staff, Texas Legislative Council, and</p> <p>24 state agencies, I would instruct you not to answer.</p> <p>25 THE WITNESS: I don't know what a</p>	<p style="text-align: center;">48</p> <p>1 privately.</p> <p>2 MS. BERKOWER: Okay. That's fine. We'll</p> <p>3 take a short break.</p> <p>4 MR. BRISSENDEN: Okay.</p> <p>5 (Recess from 10:43 a.m. to 10:51 a.m.)</p> <p>6 Q. (BY MS. BERKOWER) I think we were talking</p> <p>7 before the break about the special -- the select</p> <p>8 committee, and I have what we will mark as Exhibit 431.</p> <p>9 (Exhibit No. 431 marked)</p> <p>10 Q. (BY MS. BERKOWER) Do you know what this is?</p> <p>11 A. It appears to be the committee notice of a</p> <p>12 meeting. I'm sorry. No, this is -- this says it's --</p> <p>13 it seems to be a report about the bills that were voted</p> <p>14 on a committee.</p> <p>15 Q. Okay. So would this explain which bills were</p> <p>16 heard by the committee?</p> <p>17 A. Technically, no, it wouldn't, but, yes, it</p> <p>18 does. You know, there's another report that would tell</p> <p>19 you what all bills were heard. But, yes, this says --</p> <p>20 this is what bills were -- came out of the committee is</p> <p>21 what this report covers.</p> <p>22 With that said, I believe it is the only</p> <p>23 bill that was also heard. But that's not what this</p> <p>24 report speaks to.</p> <p>25 Q. I see. But it is accurate that this is the</p>



<p style="text-align: center;">49</p> <p>1 only bill that the select committee heard?</p> <p>2 A. I believe that is accurate.</p> <p>3 Q. Sir, I think before the break I had asked you</p> <p>4 if any bills submitted during the 82nd Legislature that</p> <p>5 addressed mail-in voter fraud were referred to this</p> <p>6 committee and you couldn't remember.</p> <p>7 A. No.</p> <p>8 Q. Does this refresh your memory?</p> <p>9 A. No, it doesn't.</p> <p>10 Q. Well, you said this is the only bill that the</p> <p>11 committee heard. Is that true?</p> <p>12 A. I believe it's the only one heard. But the</p> <p>13 question you asked is if any had been referred to the</p> <p>14 committee. And I don't know what bills had been</p> <p>15 referred over there versus what was heard.</p> <p>16 Q. Okay. So sometimes bills are referred to a</p> <p>17 committee but not heard?</p> <p>18 A. That's correct.</p> <p>19 Q. I see. But to your memory, you don't remember</p> <p>20 hearing any bills about mail-in voter fraud as part of</p> <p>21 the select committee. Is that accurate?</p> <p>22 A. That would be accurate.</p> <p>23 Q. And who decides where bills are sent with</p> <p>24 regard to which committee they're sent to?</p> <p>25 MR. BRISSENDEN: To the extent you can</p>	<p style="text-align: center;">51</p> <p>1 Q. I'm asking you.</p> <p>2 A. I'm not certain.</p> <p>3 Q. Is there --</p> <p>4 A. I don't know whether it's parliamentary or</p> <p>5 the Speaker's office who has declared the authority on</p> <p>6 that.</p> <p>7 Q. Are those generally referred according to</p> <p>8 subject matter to different committees?</p> <p>9 A. Usually.</p> <p>10 Q. Sometimes they're not, though?</p> <p>11 A. That would be correct.</p> <p>12 Q. Is there any rhyme or reasoning as to when</p> <p>13 they're not referred by subject matter?</p> <p>14 MR. BRISSENDEN: To the extent you can</p> <p>15 answer that question based upon information that's in</p> <p>16 the public record or with regards to general procedural</p> <p>17 rules, you may answer. To the extent that you have any</p> <p>18 knowledge or the question requires you to disclose</p> <p>19 communications, information that you have based upon</p> <p>20 communications with other legislators or your staff or</p> <p>21 their staff, I instruct you not to answer.</p> <p>22 THE WITNESS: I think, to answer your</p> <p>23 question, the issue is -- and it would be specific to</p> <p>24 the issue you're concerned about -- is that many times</p> <p>25 there are bills that fall clearly within the</p>
<p style="text-align: center;">50</p> <p>1 answer that question based upon -- the question refers</p> <p>2 to as a general matter. I believe you're asking as</p> <p>3 general matter, general procedural?</p> <p>4 MS. BERKOWER: I'm asking as a general</p> <p>5 matter who decides where bills are referred to.</p> <p>6 MR. BRISSENDEN: You can answer.</p> <p>7 THE WITNESS: You know, that's a</p> <p>8 mysterious question that many legislators would like to</p> <p>9 better know the answer to. And the accuracy of my</p> <p>10 comment is proven by laughter at the end.</p> <p>11 But from a technical matter -- well, I</p> <p>12 don't want to be incorrect. I think technically</p> <p>13 speaking it is the Speaker's office or the</p> <p>14 parliamentarian -- or maybe it's the House</p> <p>15 parliamentarian -- who would decide the referral of</p> <p>16 bills.</p> <p>17 Q. (BY MS. BERKOWER) So when you said -- just to</p> <p>18 follow up on what you said, that a lot of legislators</p> <p>19 would like to know more specifically who decides, why</p> <p>20 don't -- like, what do you mean by that?</p> <p>21 A. Well, I think more generally they're obviously</p> <p>22 being -- I don't know if it's specifically -- I guess</p> <p>23 it is specifically described in the rules, and I don't</p> <p>24 know what the rules say in that area. Is it the</p> <p>25 parliamentarian or --</p>	<p style="text-align: center;">52</p> <p>1 jurisdiction of more than one committee. And so that</p> <p>2 bill or other similar bills may be referred in some</p> <p>3 instances. Some of those bills that look the same may</p> <p>4 go to one committee while other bills who look the same</p> <p>5 may go to another committee because both committees, or</p> <p>6 even three or four committees -- not normally as many</p> <p>7 as four, but maybe two or three -- have overlapping</p> <p>8 jurisdiction where arguments can be made intelligently</p> <p>9 that they could go to those committees.</p> <p>10 Q. (BY MS. BERKOWER) So do you know why S.B. 14</p> <p>11 was not referred to the elections committee?</p> <p>12 A. I do not.</p> <p>13 MR. BRISSENDEN: Objection, legislative</p> <p>14 privilege. I instruct you not to answer.</p> <p>15 MS. BERKOWER: Well, to be clear,</p> <p>16 Reynolds, I asked him if he knew. I did not ask him</p> <p>17 the substance of what he knew. And those are questions</p> <p>18 that we've been permitted to ask, initial questions,</p> <p>19 throughout all of the depositions that we've conducted</p> <p>20 in this case.</p> <p>21 MR. BRISSENDEN: I disagree with your</p> <p>22 analysis.</p> <p>23 MS. BERKOWER: Well, we can cite</p> <p>24 authority in the court -- from the court's opinions if</p> <p>25 you would like. We can take a break and go through</p>





<p style="text-align: center;">53</p> <p>1 that and I can show you excerpts from other depositions</p> <p>2 in which those questions have been permitted.</p> <p>3 MR. BRISSSENDEN: Well, I've gone through</p> <p>4 the court's order of yesterday that was issued, and it</p> <p>5 specifically addresses and outlines all the different</p> <p>6 landscape of the privilege. And then I think -- well,</p> <p>7 I think my analysis is correct and I'll stand by the</p> <p>8 instruction.</p> <p>9 MS. BERKOWER: Well, to be clear, we're</p> <p>10 tailoring our questions today in accordance with the</p> <p>11 court's instructions because you recognize that the</p> <p>12 court did actually rule on the motion and defined</p> <p>13 several areas of privilege in which we are not supposed</p> <p>14 to be asking questions.</p> <p>15 MR. BRISSSENDEN: Okay.</p> <p>16 MS. BERKOWER: And, for the record, we do</p> <p>17 not agree with the court's view on that, but we will</p> <p>18 be -- we plan to preserve our objections for the future</p> <p>19 and for the record. But with regard to question of "do</p> <p>20 you know why," a yes or no question that's</p> <p>21 foundational, doesn't get into substance, we believe</p> <p>22 those questions are permissible even under the court's</p> <p>23 order of yesterday.</p> <p>24 MR. BRISSSENDEN: And I disagree with your</p> <p>25 analysis. It's invading his opinions, his thought</p>	<p style="text-align: center;">55</p> <p>1 discriminate," does that relate to racial and ethnic</p> <p>2 minorities?</p> <p>3 A. Usually that's what discrimination means.</p> <p>4 Q. What about language minorities, people who are</p> <p>5 limited in English proficiency?</p> <p>6 MR. BRISSSENDEN: I'm going to instruct</p> <p>7 you to the extent that you can answer that question</p> <p>8 with regards to your general knowledge outside of the</p> <p>9 work that you did in relation to S.B. 14, you may</p> <p>10 answer. To the extent that you have knowledge with</p> <p>11 regards to -- that you developed with regards to the</p> <p>12 Voting Rights Act in connection with your work</p> <p>13 specifically on S.B. 14, I would instruct you not to</p> <p>14 answer.</p> <p>15 THE WITNESS: I'll accept his</p> <p>16 instruction.</p> <p>17 Q. (BY MS. BERKOWER) Okay. Do you believe that</p> <p>18 compliance with the Federal Voting Rights Act is an</p> <p>19 important consideration in the lawmaking process?</p> <p>20 MR. BRISSSENDEN: Objection, vague.</p> <p>21 Q. (BY MS. BERKOWER) You may answer.</p> <p>22 A. Could you repeat the question?</p> <p>23 Q. Do you believe that compliance with the</p> <p>24 Federal Voting Rights Act is an important consideration</p> <p>25 in the lawmaking process?</p>
<p style="text-align: center;">54</p> <p>1 processes, what he knows and doesn't know. And that's</p> <p>2 with regard to legislative acts and specifically</p> <p>3 S.B. 14.</p> <p>4 MS. BERKOWER: Okay. We'll move on.</p> <p>5 Q. (BY MS. BERKOWER) Are you familiar with the</p> <p>6 Federal Voting Rights Act?</p> <p>7 A. I know of its existence.</p> <p>8 Q. Are you familiar with Section 5 of the Voting</p> <p>9 Rights Act?</p> <p>10 A. I'm aware it exists.</p> <p>11 Q. What is your understanding of the</p> <p>12 requirements, if you --</p> <p>13 A. It's the law of the land.</p> <p>14 Q. Do you know any specifics about what Section 5</p> <p>15 requires?</p> <p>16 A. Not really. I know you're to not</p> <p>17 discriminate.</p> <p>18 Q. What do you mean by that?</p> <p>19 A. What I said.</p> <p>20 Q. Well, in what way are you not supposed to</p> <p>21 discriminate?</p> <p>22 A. In any way.</p> <p>23 Q. Does it relate specifically to voting?</p> <p>24 A. I assume so. I've not studied the Act.</p> <p>25 Q. And is the -- when you say you're "not to</p>	<p style="text-align: center;">56</p> <p>1 MR. BRISSSENDEN: Again, I'm going to</p> <p>2 instruct -- first of all, the question is vague.</p> <p>3 Secondly, I'm going to instruct you that to the extent</p> <p>4 that you have information and knowledge and the</p> <p>5 question requires you to disclose information and</p> <p>6 knowledge in connection with your work specifically in</p> <p>7 connection with S.B. 14, I instruct you not to answer.</p> <p>8 To the extent you can answer the question in general</p> <p>9 terms, you may answer.</p> <p>10 THE WITNESS: Repeat it again.</p> <p>11 Q. (BY MS. BERKOWER) I asked if you believe that</p> <p>12 compliance with the Federal Voting Rights Act is an</p> <p>13 important consideration in the lawmaking process?</p> <p>14 MR. BRISSSENDEN: Same instruction.</p> <p>15 THE WITNESS: Generally we try to follow</p> <p>16 the law.</p> <p>17 Q. (BY MS. BERKOWER) Prior to S.B. 14's passage</p> <p>18 did you understand that it would be subject to</p> <p>19 preclearance under Section 5?</p> <p>20 MR. BRISSSENDEN: I'm going to instruct</p> <p>21 the witness if that information -- that question</p> <p>22 requires you to disclose thoughts, opinions, mental</p> <p>23 analysis, mental impressions about S.B. 14, I instruct</p> <p>24 you not to answer the question.</p> <p>25 MS. BERKOWER: You're not letting him</p>





<p style="text-align: center;">57</p> <p>1 answer a question asking if he knew that preclearance 2 existed?</p> <p>3 MR. BRISSENDEN: Absolutely.</p> <p>4 THE WITNESS: I accept his instruction.</p> <p>5 Q. (BY MS. BERKOWER) Okay.</p> <p>6 Do you know what types of changes -- do 7 you know what types of voting changes Section 5 applies 8 to?</p> <p>9 A. No.</p> <p>10 Q. Do you know if it applies to redistricting?</p> <p>11 A. No.</p> <p>12 Q. Have you ever received legal advice on 13 election-related matters with regards to Section 5 14 compliance?</p> <p>15 MR. BRISSENDEN: Can you read the 16 question back again?</p> <p>17 Q. (BY MS. BERKOWER) This is a general question. 18 Have you ever received any legal advice on 19 election-related matters with regard to Section 5 20 compliance?</p> <p>21 MR. BRISSENDEN: I'm going to instruct 22 you to the extent that question requires you to 23 disclose information and knowledge that you received or 24 didn't receive as a part of your analysis leading up to 25 the vote on the S.B. 14, I would instruct you not to</p>	<p style="text-align: center;">59</p> <p>1 MS. BERKOWER: I didn't ask with 2 related -- with regard to S.B. 14.</p> <p>3 MR. BRISSENDEN: Regardless, you're 4 asking him about what his mental opinions and thoughts 5 are and if he has knowledge in -- or does not have 6 knowledge in relation to his work on S.B. 14. That 7 question invokes the privilege. I'm going to instruct 8 the witness not to answer.</p> <p>9 THE WITNESS: Invoke privilege.</p> <p>10 Q. (BY MS. BERKOWER) Have you ever heard of a 11 Supreme Court decision on an Indiana voter 12 identification law?</p> <p>13 MR. BRISSENDEN: Same instruction.</p> <p>14 THE WITNESS: Follow the instruction.</p> <p>15 Q. (BY MS. BERKOWER) Have you ever received 16 public information about -- or heard a news article or 17 a news story about a Supreme Court decision on the 18 Indiana voter identification law?</p> <p>19 MR. BRISSENDEN: Same instruction.</p> <p>20 THE WITNESS: Follow the instruction.</p> <p>21 MS. BERKOWER: You're not letting him 22 answer whether he heard an item on the news sitting at 23 home in his kitchen eating breakfast?</p> <p>24 MR. BRISSENDEN: That wasn't your 25 question.</p>
<p style="text-align: center;">58</p> <p>1 answer the question.</p> <p>2 To the extent that you may have received 3 information, knowledge, or advice on other work as part 4 of your work, you may answer.</p> <p>5 THE WITNESS: Would you repeat the 6 question?</p> <p>7 Q. (BY MS. BERKOWER) I just asked as a general 8 matter, have you ever received any legal advice on 9 election-related matters with regard to Section 5 10 compliance?</p> <p>11 MR. BRISSENDEN: Same instruction.</p> <p>12 THE WITNESS: I'll follow his 13 instruction.</p> <p>14 Q. (BY MS. BERKOWER) Are you familiar with the 15 federal law called The Help America Vote Act?</p> <p>16 MR. BRISSENDEN: Same instruction.</p> <p>17 MS. BERKOWER: There could not be a more 18 general question for me to ask him.</p> <p>19 Q. (BY MS. BERKOWER) Do you know if a certain 20 federal law exists?</p> <p>21 MR. BRISSENDEN: And I'll -- to the 22 extent that your question is delving into his mental 23 thoughts, mental impressions, what he's aware of and 24 what he isn't aware of in connection with his work 25 relating to S.B. 14 --</p>	<p style="text-align: center;">60</p> <p>1 MS. BERKOWER: Fine.</p> <p>2 Q. (BY MS. BERKOWER) Have you ever, sitting at 3 home, not as a legislator?</p> <p>4 A. On Indiana?</p> <p>5 Q. On Indiana.</p> <p>6 A. Not that I'm aware of. And I don't eat 7 breakfast too.</p> <p>8 Q. Okay. It's the most important meal.</p> <p>9 A. It is.</p> <p>10 Q. Are you currently a member of any community 11 organizations or groups?</p> <p>12 A. Yes.</p> <p>13 Q. What are you a member of?</p> <p>14 A. Well, I will attempt to tell you what I'm a 15 member of. I am a member of the Angleton Chamber of 16 Commerce, the Brazos Chamber of Commerce, the Bay City 17 Chamber of Commerce. I'm pretty sure we are members of 18 the Sweeney Chamber of Commerce, I believe the West 19 Columbia Chamber of Commerce, I think the -- I mean, 20 I'm sorry -- the Brazoria Chamber of Commerce. I don't 21 think I'm a member of the Pearland Chamber anymore.</p> <p>22 Now I'm on the board of an organization 23 called Big Love, which is a support charity for 24 children and their families battling cancer. I don't 25 know if that's anything you're -- you're wanting listed</p>



<p style="text-align: center;">61</p> <p>1 or not.</p> <p>2 Q. Well, I'll stop you there.</p> <p>3 A. Okay.</p> <p>4 Q. I'll just get a little bit more specific.</p> <p>5 A. Sure.</p> <p>6 Q. Are you familiar with the American Legislative</p> <p>7 Exchange Council?</p> <p>8 A. I've heard of it.</p> <p>9 Q. What is it?</p> <p>10 A. It's a legislative council in the country.</p> <p>11 Q. What does it do?</p> <p>12 A. I really don't know.</p> <p>13 Q. Do you have any affiliation with it?</p> <p>14 A. I don't know. To be very candid, I may be a</p> <p>15 member. I'm not certain.</p> <p>16 Q. Okay. Why aren't you certain?</p> <p>17 A. Because I don't really concern myself with</p> <p>18 going to legislative conferences, and that's</p> <p>19 particularly the only reason most people are members.</p> <p>20 Q. To get to go to conferences?</p> <p>21 A. Correct.</p> <p>22 Q. Do you know what services it provides its</p> <p>23 members, other than conferences?</p> <p>24 A. What else would there be? I'm kidding.</p> <p>25 Specifically, no, I don't know. I'm</p>	<p style="text-align: center;">63</p> <p>1 Q. Do you know if other needs -- excuse me.</p> <p>2 Do you know if other members or staff of</p> <p>3 the Texas Legislature are members of ALEC?</p> <p>4 A. From hearsay, I guess I know that. But</p> <p>5 specifically -- I mean, I would be lying to say they're</p> <p>6 not. But I am not responsible to specifically know who</p> <p>7 is. So I would be disingenuous to tell you there are</p> <p>8 folks who are not, but I personally don't know who is.</p> <p>9 Q. Okay. Did you ever receive any documents from</p> <p>10 ALEC related to voter ID?</p> <p>11 A. Not that I am aware of.</p> <p>12 Q. Are you familiar with the National Conference</p> <p>13 of State Legislators?</p> <p>14 A. The exact same reasons I'm familiar with ALEC.</p> <p>15 Q. Have you attended any of their meetings?</p> <p>16 A. I think I have, but, again, I'm not certain.</p> <p>17 I rarely go to conferences.</p> <p>18 Q. Do you remember when?</p> <p>19 A. I really don't, not to be difficult. And for</p> <p>20 the record, I'm -- I think I've been to one, maybe two</p> <p>21 at the most. And, you know, I've been a state rep for</p> <p>22 15 years, so I don't -- you know --</p> <p>23 Q. Just to get a ballpark, was it in the last</p> <p>24 two years that you attended?</p> <p>25 A. No, I'm pretty certain it's not.</p>
<p style="text-align: center;">62</p> <p>1 certain it's like other legislative conferences in that</p> <p>2 it provides issue-based and, you know, policy</p> <p>3 information.</p> <p>4 Q. Have you ever paid for a membership in ALEC?</p> <p>5 A. My guess is I probably have, because I think I</p> <p>6 went to an ALEC conference a couple summers ago. And</p> <p>7 I'm sure we paid to be a member.</p> <p>8 Q. When was that, approximately, if you remember?</p> <p>9 A. I should remember. And I think it was ALEC.</p> <p>10 In full candor, we think of legislative conferences in</p> <p>11 regard to what city they're in, not which organization</p> <p>12 it is. And so it's the one that was in San Diego, and</p> <p>13 I think it was ALEC, and it was probably two or</p> <p>14 three summers ago.</p> <p>15 Q. Do you remember the substance of the</p> <p>16 conference? Maybe that begs the question.</p> <p>17 A. The substance usually is very broad, broad</p> <p>18 reaching, in that it will cover numerous areas of</p> <p>19 policy.</p> <p>20 Q. Do you remember what that particular</p> <p>21 conference covered?</p> <p>22 A. No, I don't. But, again, I -- I don't know</p> <p>23 specifically, but usually a conference like that covers</p> <p>24 numerous areas and not -- seldom is there a specific</p> <p>25 area. There are many areas.</p>	<p style="text-align: center;">64</p> <p>1 Q. More than five years ago?</p> <p>2 A. I don't know that. It could have been in the</p> <p>3 three to five range or longer. I don't know. I</p> <p>4 apologize.</p> <p>5 Q. That's okay. So maybe this also is not worth</p> <p>6 asking, but do you remember what information was</p> <p>7 covered at the conference you attended?</p> <p>8 A. Again, speaking both on ALEC and NCSL, those</p> <p>9 conferences, the ones that I would attend are their</p> <p>10 large annual conferences, and they cover a very broad</p> <p>11 and far-reaching number of issues. So, no, I don't</p> <p>12 specifically -- actually, I may have been to an NCSL</p> <p>13 conference, I think it was, in Nashville. I would be</p> <p>14 lying if I told you how many years ago, but over</p> <p>15 five years, I think, in that range.</p> <p>16 And, you know, specifically there were</p> <p>17 some environmental and energy-related. I actually went</p> <p>18 there and -- you know, went to a committee of the</p> <p>19 numerous committees they had. But I don't remember</p> <p>20 specifically.</p> <p>21 Q. Do you remember if other Texas legislators</p> <p>22 were present when you attended?</p> <p>23 A. Absolutely.</p> <p>24 Q. Absolutely? What about at the ALEC conference</p> <p>25 that you attended?</p>



<p style="text-align: center;">65</p> <p>1 A. Absolutely.</p> <p>2 Q. Do you remember who attended an ALEC</p> <p>3 conference with you?</p> <p>4 A. Not really. I mean, you know, we could go</p> <p>5 through the roster and I could make some fairly</p> <p>6 accurate guesses and some fairly inaccurate guesses.</p> <p>7 Q. Do you remember who -- which of the Texas --</p> <p>8 which other Texas legislators attended the National</p> <p>9 Conference of State Legislators conference that you</p> <p>10 attended?</p> <p>11 A. Not specifically, no. I think</p> <p>12 Senator Van de Putte was the chair of the organization</p> <p>13 at the time and was there.</p> <p>14 Q. What is the current system under state law for</p> <p>15 determining -- for determining how to verify the</p> <p>16 identity of a voter?</p> <p>17 A. It's whatever the law says. I don't know the</p> <p>18 law off the top of my head.</p> <p>19 Q. Do you have any sense of what the law</p> <p>20 currently says?</p> <p>21 A. Not really, no.</p> <p>22 Q. Do you know if the counties issue voter</p> <p>23 registration cards to voters?</p> <p>24 A. My understanding is that they do.</p> <p>25 Q. And they mail the voter registration cards to</p>	<p style="text-align: center;">67</p> <p>1 presented in the public conversation in the committee</p> <p>2 process.</p> <p>3 Q. (BY MS. BERKOWER) And were there reports of</p> <p>4 voter registration cards being stolen during the public</p> <p>5 committee?</p> <p>6 A. I don't remember specifically if that was some</p> <p>7 of what was discussed, but I know generally there were</p> <p>8 those type issues talked about in the public, and</p> <p>9 expert testimony.</p> <p>10 Q. So the current system does require voters to</p> <p>11 present identification of some sort. Is that accurate?</p> <p>12 A. I believe it is.</p> <p>13 Q. So what was the purpose of photo</p> <p>14 identification legislation in Texas given that the law</p> <p>15 already requires identification?</p> <p>16 MR. BRISSENDEN: To the extent that you</p> <p>17 can answer that question, generally speaking, as to</p> <p>18 what the general purpose of the legislation was, you</p> <p>19 may answer.</p> <p>20 THE WITNESS: The general purpose is to</p> <p>21 provide the highest degree of confidence and integrity</p> <p>22 in our elections.</p> <p>23 Q. (BY MS. BERKOWER) Is there any other purpose?</p> <p>24 A. Not that I know of.</p> <p>25 MS. BERKOWER: Okay. I think -- can we</p>
<p style="text-align: center;">66</p> <p>1 their voters?</p> <p>2 A. They're supposed to.</p> <p>3 Q. And voters can bring those cards with them to</p> <p>4 the polls?</p> <p>5 A. Yes. They don't have to, I don't think,</p> <p>6 though.</p> <p>7 Q. And if they don't have that card can a voter</p> <p>8 show any ID from a various long list of IDs, including</p> <p>9 non-photo IDs in order to vote?</p> <p>10 A. I don't know.</p> <p>11 Q. What about if a voter doesn't have those, can</p> <p>12 they cast a provisional ballot?</p> <p>13 A. I don't know absolutely, but I believe that</p> <p>14 they can.</p> <p>15 Q. Have you ever heard any reports of voter</p> <p>16 registration cards being stolen?</p> <p>17 MR. BRISSENDEN: To the extent that that</p> <p>18 question requires you to disclose information that</p> <p>19 you -- or knowledge that you received in relation to</p> <p>20 your work on S.B. 14, I instruct you not to answer.</p> <p>21 To the extent that you have general</p> <p>22 information or knowledge beyond your work on S.B. 14 or</p> <p>23 that is information that is part of the public record</p> <p>24 you may answer.</p> <p>25 THE WITNESS: Only -- only information</p>	<p style="text-align: center;">68</p> <p>1 take a short break, please, off the record?</p> <p>2 (Recess from 11:15 a.m. to 11:53 a.m.)</p> <p>3 Q. (BY MS. BERKOWER) So I think we're going to</p> <p>4 go back through a few questions we went through before,</p> <p>5 and your counsel will instruct you pursuant to a</p> <p>6 discussion we had off the record.</p> <p>7 MR. BRISSENDEN: For the record, the only</p> <p>8 question you've asked about is one question in</p> <p>9 particular. If you have more questions you want to</p> <p>10 review we need to take another break and discuss those.</p> <p>11 MS. BERKOWER: Okay. Then we need to</p> <p>12 take another break.</p> <p>13 (Discussion off the record.)</p> <p>14 MS. BERKOWER: We'll go back on now.</p> <p>15 Q. (BY MS. BERKOWER) Sir, like I said a minute</p> <p>16 ago, we'll go back to some questions and make our</p> <p>17 record.</p> <p>18 So are you familiar with the Federal</p> <p>19 Voting Rights Act?</p> <p>20 MR. BRISSENDEN: Same objection, same</p> <p>21 answer, same instruction. The question has been asked</p> <p>22 and answered. In terms of instructing you not to</p> <p>23 disclose your mental impressions, thoughts, information</p> <p>24 that you have in connection with your work, either</p> <p>25 legislative activities involving drafting, debating</p>



<p style="text-align: center;">69</p> <p>1 information, gathering with respect to S.B. 14.</p> <p>2 Now, to the extent that you have</p> <p>3 information or have knowledge with regards to HABA Act</p> <p>4 that you learned separate and apart from your work in</p> <p>5 connection with S.B. 14, outside of the context of</p> <p>6 legislature, you may -- or if the knowledge that you</p> <p>7 have is information that was part of the public record,</p> <p>8 debate on the floor, you may -- or in committee, you</p> <p>9 may answer the question.</p> <p>10 Do you understand?</p> <p>11 THE WITNESS: Yes, I do.</p> <p>12 MS. BERKOWER: Okay. So just to be</p> <p>13 clear, I think you just said "HABA." That's not</p> <p>14 actually what I asked him about. I asked him about the</p> <p>15 Federal Voting Rights Act. So can you just --</p> <p>16 MR. BRISSSENDEN: Oh, I'm -- I'll change</p> <p>17 that and amend it to the Federal -- what was it?</p> <p>18 MS. BERKOWER: Voting Rights Act.</p> <p>19 MR. BRISSSENDEN: -- Voting Rights Act.</p> <p>20 MS. BERKOWER: And I think you said,</p> <p>21 "Same objection, same instruction." I'm not exactly</p> <p>22 sure what you were referring to there.</p> <p>23 MR. BRISSSENDEN: The question that you</p> <p>24 asked is the same as what you asked previously.</p> <p>25 MS. BERKOWER: Okay. So you're referring</p>	<p style="text-align: center;">71</p> <p>1 Section 5 of the Voting Rights Act?</p> <p>2 MR. BRISSSENDEN: My instruction would be</p> <p>3 the same. To the extent that you have knowledge or</p> <p>4 information about the section in regards to your -- or</p> <p>5 information that was in the public record or apart from</p> <p>6 your work on S.B. 14 as a general matter, you may</p> <p>7 answer. Otherwise, I'm instructing you not to.</p> <p>8 THE WITNESS: The same answer.</p> <p>9 It was mentioned on the House floor and</p> <p>10 it was discussed during committee deliberations -- not</p> <p>11 deliberations, but committee hearing.</p> <p>12 Q. (BY MS. BERKOWER) Do you know what The Help</p> <p>13 America Vote Act is?</p> <p>14 MR. BRISSSENDEN: Again, same instruction.</p> <p>15 To the extent that you have knowledge or information</p> <p>16 about that act in connection with -- or information</p> <p>17 that was presented in the public record or that you</p> <p>18 have knowledge about aside from your work on S.B. 14,</p> <p>19 you may answer. Otherwise, I instruct you not to</p> <p>20 answer.</p> <p>21 THE WITNESS: I'll follow the</p> <p>22 instruction. I mean, the answer is the same. I mean,</p> <p>23 it was mentioned on the House floor and it was</p> <p>24 mentioned during committee hearing.</p> <p>25 Q. (BY MS. BERKOWER) Okay. To be clear on that,</p>
<p style="text-align: center;">70</p> <p>1 back to the time you objected when I asked the question</p> <p>2 before?</p> <p>3 MR. BRISSSENDEN: That's right.</p> <p>4 MS. BERKOWER: Okay. Well, I'm not --</p> <p>5 Q. (BY MS. BERKOWER) Well, can you answer based</p> <p>6 on his instruction?</p> <p>7 A. No.</p> <p>8 Q. Okay. Well --</p> <p>9 A. Other -- other -- well, based on his</p> <p>10 instruction, I can answer that it was discussed in the</p> <p>11 public setting of the House floor and in the committee.</p> <p>12 Q. Okay. So you're familiar with -- you were</p> <p>13 aware of the Federal Voting Rights Act through the</p> <p>14 public debate?</p> <p>15 A. And the committee discussion.</p> <p>16 Q. And the committee discussion.</p> <p>17 MS. BERKOWER: And, to be clear, I wasn't</p> <p>18 asking him about whether he considered the Federal</p> <p>19 Voting Rights Act in connection with any deliberation</p> <p>20 or legislative activity. I was merely asking him</p> <p>21 whether -- or even in connection specifically with any</p> <p>22 voter identification legislation or S.B. 14. I merely</p> <p>23 asked if he was aware of the Federal Voting Rights Act</p> <p>24 as a general matter.</p> <p>25 Q. (BY MS. BERKOWER) Are you familiar with</p>	<p style="text-align: center;">72</p> <p>1 I'm asking you whether you knew it in connection with</p> <p>2 legitimate legislative activity or any deliberation.</p> <p>3 And I also did not ask for it in the context that would</p> <p>4 reveal anything about your deliberations or legislative</p> <p>5 activities.</p> <p>6 MR. BRISSSENDEN: But the question as</p> <p>7 phrased encompasses both his work in connection with</p> <p>8 his legislative activity and outside of the context of</p> <p>9 his work on the legislative activity. So because of</p> <p>10 the broad scope of the question I'm having to assert</p> <p>11 the privilege.</p> <p>12 MS. BERKOWER: And as we explained off</p> <p>13 the record -- we had a discussion about this, and I</p> <p>14 referred you to Page 8 of the court's June 5th order.</p> <p>15 We're not asking -- we're asking this purely as a</p> <p>16 general matter to find out if he knew generally about</p> <p>17 it. We're not asking for anything in connection</p> <p>18 specifically, anything that leads it specifically to</p> <p>19 his deliberations or legislative activities.</p> <p>20 As a result, we view this as a basic</p> <p>21 foundational question that we're permitted to ask under</p> <p>22 that order and under the court's May 17th order.</p> <p>23 MR. BRISSSENDEN: I'm directing your</p> <p>24 attention to the top of Page 8. Because the question</p> <p>25 is very broad, it implicates public or otherwise</p>



<p style="text-align: center;">73</p> <p>1 nonprivileged information in terms of whether -- or his 2 state of knowledge, consideration as a Texas legislator 3 in connection with legislative activities. 4 MS. BERKOWER: And we view the question 5 as broad enough to encompass -- broad enough not to 6 require specific information that connects it to his 7 specific legislative activities. 8 Unless you have something further, we'll 9 move on. 10 MR. BRISSENDEN: We'll move on. 11 Q. (BY MS. BERKOWER) Have you ever heard of a 12 Supreme Court decision in the case Crawford versus 13 Marion County concerning Indiana voter identification 14 law? 15 MR. BRISSENDEN: My instruction to you is 16 the same. We've just reviewed and just discussed in 17 connection with this question as well. 18 THE WITNESS: I believe, again, it was 19 discussed possibly on the House floor and I think 20 brought up in committee. 21 Q. (BY MS. BERKOWER) When was it mentioned in 22 committee? 23 A. I believe it was mentioned when we had a 24 public hearing. 25 Q. Do you remember when that was?</p>	<p style="text-align: center;">75</p> <p>1 Texas legislators and officials in Indiana regarding 2 its photo ID law or the proper decision? 3 A. I'm not, no. 4 Q. Did you have any communications with Indiana 5 officials? 6 A. The reason for my hesitation is that I did not 7 personally have any direct communication with them. 8 I'm unable to recall whether someone connected to 9 Indiana testified in public hearing or not. And I 10 don't remember the record on that. I personally did 11 not, though, in a private setting. 12 Q. I'm going to mark this as Exhibit 432, please. 13 (Exhibit No. 432 marked) 14 Q. (BY MS. BERKOWER) Do you recall -- do you 15 know what this is? 16 A. It looks like a letter. 17 Q. Who is the letter addressed to? 18 A. Rep. Dennis Bonnen, Chair. 19 Q. Would that be you? 20 A. Yes, it would. 21 Q. Was it addressed to you in the context of your 22 chairmanship on the select committee? 23 A. It appears it was. 24 Q. Do you remember the letter at all? 25 A. No.</p>
<p style="text-align: center;">74</p> <p>1 A. The date of the public hearing? 2 Q. Do you remember the date? 3 A. Not off the top of my head. I think it was 4 February of '11. 5 Q. Who was present during that hearing? 6 A. Lots of people. I mean, the public is invited 7 in and welcome, and so many people. 8 Q. Do you remember if anyone in particular 9 testified about the decision? 10 A. No. 11 Q. Do you remember what they said about the 12 decision? 13 A. No. 14 Q. Do you remember any discussion generally about 15 the decision during that hearing? 16 A. Not at this time. 17 Q. You also said it was mentioned on the floor. 18 Is that a separate time? 19 A. Well, possibly. Yeah, possibly. I don't 20 specifically remember. 21 Q. Did anyone mention during their testimony that 22 it impacted the State's ability to develop photo 23 identification laws? 24 A. I don't recall. 25 Q. Are you aware of any communications between</p>	<p style="text-align: center;">76</p> <p>1 Q. Can you review it now, please? 2 A. Certainly. (Reading). 3 Q. Let me know when you've had a chance to look 4 through the whole thing. 5 A. Sure. No, go ahead. I can't promise I've got 6 it all down. 7 Q. What was the substance of this -- of this 8 letter as a general matter? 9 MR. BRISSENDEN: Objection to the extent 10 the document speaks for itself. 11 Q. (BY MS. BERKOWER) You can answer. 12 A. "I would like to share with you Indiana's 13 experiences with regard to our photo ID voting 14 requirement." 15 Q. Did anyone solicit this input from Indiana, 16 from this person in Indiana? 17 A. I did not. I can't speak for others. 18 Q. And just to be clear, who was it who wrote the 19 letter? If you turn to the last page, I think it says. 20 A. It has no signature on it, but it has a typed 21 name of Thomas E. Wheeler, II. 22 Q. So do you know -- does the letter explain what 23 the ID requirements in Indiana are under their voter ID 24 law? 25 A. It might.</p>





<p style="text-align: center;">77</p> <p>1 Q. Can you turn to Page 3 at the top.</p> <p>2 A. It appears that it does.</p> <p>3 Q. And what are those requirements?</p> <p>4 A. "Indiana's photo ID law requires that all</p> <p>5 Indiana residents present photo ID before casting a</p> <p>6 ballot in person at the polls on election day. The</p> <p>7 photo ID must meet full criteria to be acceptable for</p> <p>8 voting purposes. The ID must be issued by the State of</p> <p>9 Indiana or the US Government, display the voter's</p> <p>10 photo, display an expiration date that is either</p> <p>11 current or expired no earlier than the date of the last</p> <p>12 general election, and display the voter's name such</p> <p>13 that it reasonably conforms with the name on the voter</p> <p>14 registration card" (as read).</p> <p>15 And then in quotes it says "poll book,"</p> <p>16 period.</p> <p>17 Q. Is that what you understand the requirements</p> <p>18 of the Indiana law to be?</p> <p>19 A. I have no real knowledge to know whether this</p> <p>20 is accurate or inaccurate.</p> <p>21 Q. Do you have any idea what the process was by</p> <p>22 which this particular person was selected to provide</p> <p>23 input on Indiana law?</p> <p>24 MR. BRISSENDEN: To the extent the</p> <p>25 question requires you to disclose any information that</p>	<p style="text-align: center;">79</p> <p>1 voted on Senate Bill 14?</p> <p>2 A. I do not know. If I had to guess -- I imagine</p> <p>3 you'll have the record. My guess is it was probably</p> <p>4 before the House voted.</p> <p>5 Q. Do you know, was this letter entered into the</p> <p>6 public record as a result of it being sent to you as</p> <p>7 the chair of the select committee?</p> <p>8 A. I do not know. My guess is it probably was</p> <p>9 not for the reason that the committee had already had</p> <p>10 its public meeting and submitted its report by</p> <p>11 March 1st is my guess. I don't know absolutely.</p> <p>12 Q. And does the letter explain at all why Indiana</p> <p>13 decided to pass this law?</p> <p>14 A. I guess you could say he makes an attempt at</p> <p>15 that by discussing on the first page, according to</p> <p>16 press reports during the East Chicago City primary</p> <p>17 election on May 6th, 2003, and then he continues on to</p> <p>18 discuss a concern.</p> <p>19 Q. That there was an incident of voter fraud that</p> <p>20 was prosecuted?</p> <p>21 A. That's what it appears to describe.</p> <p>22 Q. Do you know of any similar incident that was</p> <p>23 included in the public record involving a prosecution</p> <p>24 for in-person election fraud in Texas?</p> <p>25 MR. BRISSENDEN: Again, you're asking</p>
<p style="text-align: center;">78</p> <p>1 you may have conducted as part of your investigation,</p> <p>2 your work, your staff may have done as part of your</p> <p>3 analysis in regards to S.B. 14, I instruct you not to</p> <p>4 answer. To the extent that you can answer the question</p> <p>5 without disclosing that information, you may proceed.</p> <p>6 THE WITNESS: Could you repeat the</p> <p>7 question?</p> <p>8 Q. (BY MS. BERKOWER) I said, what was -- do you</p> <p>9 know what the process was by which this person was</p> <p>10 selected to provide input about the Indiana voter ID</p> <p>11 law.</p> <p>12 MR. BRISSENDEN: And, also, do not</p> <p>13 disclose any communications that you had with other</p> <p>14 legislators.</p> <p>15 THE WITNESS: I do not know.</p> <p>16 Q. (BY MS. BERKOWER) Do you know who</p> <p>17 Thomas E. Willard, III is?</p> <p>18 A. Not at all.</p> <p>19 Q. Have you ever met him?</p> <p>20 A. Not that I'm aware of.</p> <p>21 Q. And what was the date on which this letter was</p> <p>22 received?</p> <p>23 A. It appears that it was after the committee</p> <p>24 hearing and it was on March the 1st of 2011.</p> <p>25 Q. In your memory, was that before the House</p>	<p style="text-align: center;">80</p> <p>1 him --</p> <p>2 MS. BERKOWER: I said in the public</p> <p>3 record.</p> <p>4 MR. BRISSENDEN: The public record.</p> <p>5 THE WITNESS: Yes. I know in the</p> <p>6 committee hearing there was discussion of a case, but I</p> <p>7 believe due to the fact that the case may have been</p> <p>8 ongoing the discussion was limited.</p> <p>9 Q. (BY MS. BERKOWER) Was it just that one case</p> <p>10 that you're remembering?</p> <p>11 A. There may have been two, but I'm not positive</p> <p>12 of that.</p> <p>13 Q. And do you also see in Paragraph 2 of the</p> <p>14 letter -- sorry. On the first page --</p> <p>15 A. Right.</p> <p>16 Q. -- in the third full paragraph, it says, "Data</p> <p>17 collected by the election assistance committee in 2004</p> <p>18 indicated that 19 of Indiana's 96 counties have</p> <p>19 registration totals exceeding 100 percent of the 2004</p> <p>20 voting age population" (as read).</p> <p>21 Do you see that?</p> <p>22 A. Yes, ma'am.</p> <p>23 Q. Do you know of any similar problem in any</p> <p>24 Texas counties?</p> <p>25 MR. BRISSENDEN: To the extent that you</p>





<p style="text-align: center;">81</p> <p>1 have information or knowledge in connection with your</p> <p>2 S.B. 14, including analysis --</p> <p>3 MS. BERKOWER: I'll limit this to the</p> <p>4 public record. How about that?</p> <p>5 MR. BRISSENDEN: Let me finish.</p> <p>6 -- then do not answer and disclose that.</p> <p>7 If you can answer the question limited to the public</p> <p>8 record, information that's contained therein, you may</p> <p>9 answer.</p> <p>10 THE WITNESS: I'm not sure whether --</p> <p>11 similar type issues were raised in the public record.</p> <p>12 I don't know specifically if they were on target with</p> <p>13 that or not.</p> <p>14 Q. (BY MS. BERKOWER) "Similar type issues"</p> <p>15 meaning what?</p> <p>16 A. In the public. Issues of irregularities with</p> <p>17 voter registration.</p> <p>18 Q. Do you remember more specifically what those</p> <p>19 irregularities were?</p> <p>20 A. No, I do not. They're in the public record,</p> <p>21 though.</p> <p>22 Q. Were there any incidences that you remember</p> <p>23 where a Texas county had a registration total that</p> <p>24 exceeded 100 percent of the voting age population?</p> <p>25 MR. BRISSENDEN: Again, I'm going to</p>	<p style="text-align: center;">83</p> <p>1 A. It is a bill, House Bill 1706, by</p> <p>2 Mrs. Renny and others.</p> <p>3 Q. Can you describe the basic provisions of the</p> <p>4 bill, if you remember them?</p> <p>5 A. I don't really remember them.</p> <p>6 Q. Okay. Were you involved in the development of</p> <p>7 this bill?</p> <p>8 A. No.</p> <p>9 Q. Turning to Page 4 of the exhibit, can you</p> <p>10 review that page and the next? I think the pages</p> <p>11 include Pages 4 through 7 of this exhibit.</p> <p>12 A. Okay. Certainly. (Reading).</p> <p>13 Q. Let me know when you're done.</p> <p>14 A. Sure.</p> <p>15 I'm done.</p> <p>16 Q. Okay. Could you list the forms of allowable</p> <p>17 identification provided in the bill?</p> <p>18 A. I can try. "The following documentation is an</p> <p>19 acceptable form of photo identification under this</p> <p>20 chapter. No. 1, a driver's license or personal</p> <p>21 identification card issued to the person by the</p> <p>22 Department of Public Safety or the equivalent agency</p> <p>23 for another -- of another state that is not expired or</p> <p>24 that expired no later than two years before the date of</p> <p>25 presentation; 2, a United States military</p>
<p style="text-align: center;">82</p> <p>1 instruct you to the extent that that question is asking</p> <p>2 you for information that's beyond the public record not</p> <p>3 to answer the question. To the extent that you can</p> <p>4 answer the question based upon information that's in</p> <p>5 the public record, you can answer.</p> <p>6 THE WITNESS: I'll follow his</p> <p>7 instruction.</p> <p>8 Q. (BY MS. BERKOWER) So to be clear, then, with</p> <p>9 regard to the public record, do you remember any</p> <p>10 incident reported on the public record where a Texas</p> <p>11 county had more than 100 percent registration based on</p> <p>12 the voting age population in that county?</p> <p>13 A. I recall issues being raised. I don't know if</p> <p>14 that specifically was.</p> <p>15 Q. Okay. Are you familiar with the voter</p> <p>16 identification bill that was introduced in the House in</p> <p>17 2005?</p> <p>18 A. In the regard that I'm aware something was</p> <p>19 probably filed. Specifically, I don't recall it.</p> <p>20 Q. I have what has been previously marked</p> <p>21 Exhibit 44, so I will remark it here as Exhibit 44.</p> <p>22 A. Thank you.</p> <p>23 Q. Do you recognize this?</p> <p>24 A. I do have a recollection of it, yes.</p> <p>25 Q. What is it?</p>	<p style="text-align: center;">84</p> <p>1 identification card that contains the person's</p> <p>2 photograph; No. 3, a valid employee identification card</p> <p>3 that contains the person's photograph and is issued by</p> <p>4 an employer of the person in the ordinary course of the</p> <p>5 employer's business; No. 4, a United States citizenship</p> <p>6 certificate issued to the person that contains the</p> <p>7 person's photograph; 5, a United States passport issued</p> <p>8 to the person; 6, a student identification card issued</p> <p>9 by public or private institution of higher education</p> <p>10 that contains the person's photograph; 7, a license to</p> <p>11 carry a concealed handgun issued to the person by the</p> <p>12 Department of Public Safety; No. 8, an identification</p> <p>13 card issued by a state agency of this state that</p> <p>14 contains the person's photograph; or, 9, an</p> <p>15 identification card that contains the person's</p> <p>16 photograph and/or is issued by a county elections</p> <p>17 administrator or a county clerk" (as read).</p> <p>18 Q. Okay. I'll stop you there.</p> <p>19 A. Okay.</p> <p>20 Q. Do you know the next section, Section B --</p> <p>21 A. B, uh-huh.</p> <p>22 Q. -- as a general matter, does that permit a</p> <p>23 voter to also show two forms of non-photo ID?</p> <p>24 A. "The following documentation is acceptable as</p> <p>25 proof of identification under this chapter. 1, a copy</p>



<p style="text-align: center;">85</p> <p>1 of a current utility bill, bank statement, government</p> <p>2 check, paycheck, or other government document that</p> <p>3 shows the name and address of voter; and, 2, official</p> <p>4 mail addressed to the person by name from a</p> <p>5 governmental entity" (as read).</p> <p>6 Q. I think the reason I stopped you is I know</p> <p>7 there's -- I don't want to make you read pages and</p> <p>8 pages --</p> <p>9 A. Right.</p> <p>10 Q. -- and I know there's a number of others.</p> <p>11 A. Right.</p> <p>12 Q. But as a general matter, does it look like it</p> <p>13 also permits a voter to show two forms of what is</p> <p>14 generally non-photo ID? And you can review the</p> <p>15 different types of ID on that page in order to -- to</p> <p>16 vote.</p> <p>17 A. It appears to do so.</p> <p>18 Q. What was the purpose of H.B. 1706?</p> <p>19 MR. BRISENDEN: I'm going to instruct</p> <p>20 you that to the extent that you have knowledge about</p> <p>21 the general purpose of H.B. 1706 as a general matter,</p> <p>22 you may answer.</p> <p>23 THE WITNESS: I'll follow the</p> <p>24 instruction.</p> <p>25 Q. (BY MS. BERKOWER) You don't know what the</p>	<p style="text-align: center;">87</p> <p>1 debate?</p> <p>2 A. I do not.</p> <p>3 Q. Are you familiar with any of the legislators</p> <p>4 who opposed H.B. 1706 during the public debate?</p> <p>5 A. I don't recall.</p> <p>6 Q. Do you know of any action taken by any</p> <p>7 legislator to address concerns raised by opponents of</p> <p>8 H.B. 1706 as would be contained in the public record?</p> <p>9 A. I don't recall.</p> <p>10 Q. Any amendments that might have addressed the</p> <p>11 concerns of opponents of the bill?</p> <p>12 A. I don't recall the specifics of the bill or</p> <p>13 amendments to the bill.</p> <p>14 Q. Do you remember if any amendments that would</p> <p>15 have addressed concerns raised by the opponents of 1706</p> <p>16 were ultimately included in the bill?</p> <p>17 MR. BRISENDEN: Objection, vague.</p> <p>18 THE WITNESS: I just don't recall. I</p> <p>19 don't know. The record would indicate that one way or</p> <p>20 the other.</p> <p>21 Q. (BY MS. BERKOWER) Was H.B. 1706 designed in</p> <p>22 part to prevent noncitizens from voting?</p> <p>23 MR. BRISENDEN: Objection, privilege.</p> <p>24 Instruct the witness not to disclose mental</p> <p>25 impressions, thoughts, opinions, mental analysis</p>
<p style="text-align: center;">86</p> <p>1 general purpose of H.B. 1706 was?</p> <p>2 A. Well, it was to provide greater integrity and</p> <p>3 confidence in the election process.</p> <p>4 Q. How did it do that?</p> <p>5 MR. BRISENDEN: Objection, privileged.</p> <p>6 Instruct the witness not to disclose his mental</p> <p>7 impressions, thoughts, analysis about the bill and</p> <p>8 instruct you not to answer the question.</p> <p>9 Q. (BY MS. BERKOWER) Do you know of any</p> <p>10 communication concerns -- excuse me. I'll start over.</p> <p>11 Do you know of any communications</p> <p>12 concerning the forms of allowable identification to be</p> <p>13 included in H.B. 1706?</p> <p>14 A. I do not.</p> <p>15 Q. Do you know who drafted the bill?</p> <p>16 A. I would have to assume legislative council,</p> <p>17 but I don't know that factually.</p> <p>18 Q. Do you know what -- sorry.</p> <p>19 A. That's okay.</p> <p>20 Q. Were you present during any of the legislative</p> <p>21 public debates on H.B. 1706?</p> <p>22 A. I assume I was on the House floor when we</p> <p>23 debated the bill.</p> <p>24 Q. Do you remember the justifications for</p> <p>25 H.B. 1706 as expressed by supporters during the public</p>	<p style="text-align: center;">88</p> <p>1 regarding this. Instruct you not to answer.</p> <p>2 THE WITNESS: I'll follow the</p> <p>3 instruction.</p> <p>4 Q. (BY MS. BERKOWER) Was part of the legislative</p> <p>5 purpose to prevent noncitizens from voting?</p> <p>6 MR. BRISENDEN: Same instruction.</p> <p>7 THE WITNESS: I'll follow the</p> <p>8 instruction.</p> <p>9 Q. (BY MS. BERKOWER) Do supporters of H.B. 1706,</p> <p>10 including legislators, publicly indicate that the bill</p> <p>11 is designed to prevent noncitizens from voting?</p> <p>12 MR. BRISENDEN: You can answer to the</p> <p>13 extent that is part of the public record.</p> <p>14 THE WITNESS: I don't know. I would hope</p> <p>15 not.</p> <p>16 Q. (BY MS. BERKOWER) Why would you hope not?</p> <p>17 A. That would not be appropriate.</p> <p>18 Q. Why not?</p> <p>19 A. Because that's not the intent.</p> <p>20 Q. Are you aware of any private communications</p> <p>21 where legislators indicated that H.B. 1706 was designed</p> <p>22 to keep noncitizens from voting?</p> <p>23 MR. BRISENDEN: Again, instruct the</p> <p>24 witness not to answer if it discloses thoughts, mental</p> <p>25 impressions, or opinions of conversations.</p>



<p style="text-align: center;">89</p> <p>1 THE WITNESS: I'll follow the</p> <p>2 instruction.</p> <p>3 Q. (BY MS. BERKOWER) Are you aware of any</p> <p>4 analysis conducted by anyone related to H.B. 1706?</p> <p>5 MR. BRISSENDEN: Just a minute.</p> <p>6 Q. (BY MS. BERKOWER) Any analysis conducted by</p> <p>7 anyone.</p> <p>8 MR. BRISSENDEN: I'll allow it.</p> <p>9 THE WITNESS: Not as I sit here today,</p> <p>10 no. I'm certain someone did, but, no, I'm not aware of</p> <p>11 it.</p> <p>12 Q. (BY MS. BERKOWER) Are you aware of any</p> <p>13 attempt to determine who, among registered voters, did</p> <p>14 not possess the forms of identification required by</p> <p>15 1706?</p> <p>16 MR. BRISSENDEN: Again, I'm going to</p> <p>17 instruct the witness not to disclose any information</p> <p>18 that you received knowledge that you have in connection</p> <p>19 with your work as a legislator and in connection with</p> <p>20 H.B. 1706, not to disclose thoughts, opinions, mental</p> <p>21 impressions, analysis about the legislation, not to</p> <p>22 disclose communications that you've had with other</p> <p>23 legislators, your staff, or other legislators' staff,</p> <p>24 state agencies, or Texas Legislative Council.</p> <p>25 To the extent that you can answer the</p>	<p style="text-align: center;">91</p> <p>1 I have what will be Exhibit 433.</p> <p>2 (Discussion off the record)</p> <p>3 (Exhibit No. 433 marked)</p> <p>4 Q. (BY MS. BERKOWER) Does this refresh your</p> <p>5 recollection as to whether H.B. 1706 was passed in the</p> <p>6 House?</p> <p>7 A. One second. Let's see. It appears it was in</p> <p>8 gross, yes.</p> <p>9 Q. Which committee was it referred to in the</p> <p>10 Senate?</p> <p>11 A. In the Senate, the State Affairs.</p> <p>12 Q. Do you know who referred it to the State</p> <p>13 Affairs Committee?</p> <p>14 A. Somebody in the Senate. I'm not sure who's</p> <p>15 responsible for that.</p> <p>16 Q. Do you have a sense of -- do you know as a</p> <p>17 general matter how the bill referral process works in</p> <p>18 the Senate?</p> <p>19 A. Not really, no.</p> <p>20 Q. What happened to H.B. 1706 after it was</p> <p>21 referred to the State Affairs Committee and the Senate?</p> <p>22 A. I don't believe the record indicates that I</p> <p>23 have here. It appears that the last action was that it</p> <p>24 was referred to State Affairs. And that's all that</p> <p>25 seems to be in this record.</p>
<p style="text-align: center;">90</p> <p>1 question based upon information that's in the public</p> <p>2 record or not disclosed any privileged information, you</p> <p>3 may answer.</p> <p>4 THE WITNESS: I'll follow his</p> <p>5 instruction.</p> <p>6 Q. (BY MS. BERKOWER) Do you know of any -- of</p> <p>7 anything in the public record that indicates</p> <p>8 legislators tried to determine among registered voters</p> <p>9 who did not possess the forms of identification</p> <p>10 required by H.B. 1706?</p> <p>11 A. No.</p> <p>12 Q. Do you know of any studies entered into the</p> <p>13 public record about the number of registered voters</p> <p>14 without allowable forms of identification under 1706?</p> <p>15 A. I'm not aware of any.</p> <p>16 Q. Are you aware of any attempt as indicated in</p> <p>17 the public record to determine the impact of H.B. 1706</p> <p>18 on minority voters?</p> <p>19 A. As I sit here today, no, I'm not. I don't</p> <p>20 know if that existed or not.</p> <p>21 Q. Was H.B. 1706 passed in the House?</p> <p>22 A. I don't recall. I think it did, but I'm not</p> <p>23 sure. It may have failed by one vote. I can't</p> <p>24 remember. There's a record, though.</p> <p>25 Q. There is.</p>	<p style="text-align: center;">92</p> <p>1 Q. Do you recognize where this record came from?</p> <p>2 A. Texas Legislature on-line.</p> <p>3 Q. Do you know what the Texas Legislature</p> <p>4 on-line -- well, is it the Legislature on-line history?</p> <p>5 Is that what that says?</p> <p>6 A. Correct.</p> <p>7 Q. And does this appear -- this document appear</p> <p>8 to contain the legislative history for H.B. 1706?</p> <p>9 A. It does, but it appears to be incomplete.</p> <p>10 And -- well, I don't know if it's incomplete or not.</p> <p>11 The last history that it indicates is -- is May the 5th</p> <p>12 of 2005, "Referred to State Affairs." I don't know if</p> <p>13 that's where it ended or not.</p> <p>14 Q. How would you determine if the bill -- if</p> <p>15 there is subsequent legislative history for this bill?</p> <p>16 A. Beyond that?</p> <p>17 Q. Yes.</p> <p>18 A. I mean, if you pulled this yesterday I would</p> <p>19 assume that was where it -- where it ended. I just</p> <p>20 don't know.</p> <p>21 Q. Okay. Do you see the date on the bottom</p> <p>22 right-hand corner of the document?</p> <p>23 A. I do now, yes, 5-27-12. So it appears it was</p> <p>24 referred to State Affairs and never had a hearing.</p> <p>25 Q. So is it fair to say that it never passed the</p>



<p style="text-align: center;">93</p> <p>1 the Senate?</p> <p>2 A. It appears to be fair to say that.</p> <p>3 Q. Are you familiar with the voter ID bill that</p> <p>4 was introduced in the House in 2007?</p> <p>5 A. I'm sure there was one, but specifically, no,</p> <p>6 I'm not.</p> <p>7 Q. I have what will be -- what was previously</p> <p>8 marked as Exhibit 28 in a different deposition.</p> <p>9 MR. BRISSSENDEN: Did you say 28?</p> <p>10 MS. BERKOWER: Yes.</p> <p>11 THE WITNESS: This is from when, '7?</p> <p>12 Q. (BY MS. BERKOWER) Yes. Are you familiar with</p> <p>13 this document?</p> <p>14 A. In a general, vague sense, yes.</p> <p>15 Q. What is it?</p> <p>16 A. Is it House Bill 218 by Representative</p> <p>17 Betty Brown of Kaufman County and others.</p> <p>18 Q. Are you familiar with the basic provisions of</p> <p>19 the bill?</p> <p>20 A. No.</p> <p>21 Q. Did you play any role in development of</p> <p>22 H.B. 218?</p> <p>23 A. I did not.</p> <p>24 Q. Turning to Page 9, can you -- can you list</p> <p>25 every form of identification that is acceptable for</p>	<p style="text-align: center;">95</p> <p>1 institution or political subdivision of this state" (as</p> <p>2 read).</p> <p>3 Q. And Section B, which begins where you left</p> <p>4 off, does that provide additional documentation that's</p> <p>5 acceptable as proof of identification?</p> <p>6 A. It does appear to do so.</p> <p>7 Q. And just taking -- if you can just quickly</p> <p>8 review those yourself, do each of those forms of</p> <p>9 identification require a photo identification?</p> <p>10 MR. BRISSSENDEN: Take your time.</p> <p>11 THE WITNESS: Can you repeat the</p> <p>12 question?</p> <p>13 Q. (BY MS. BERKOWER) Well, that section,</p> <p>14 Section B, does that list additional documentation</p> <p>15 that's acceptable as proof of identification under this</p> <p>16 bill?</p> <p>17 A. It appears it does, yes.</p> <p>18 Q. And do all of the forms of identification</p> <p>19 listed in that section, are those all photo</p> <p>20 identifications?</p> <p>21 A. Not all of them, no.</p> <p>22 Q. In fact, doesn't that include a library card</p> <p>23 that contains the person's name under Item 10 on</p> <p>24 Page 11?</p> <p>25 A. A library card that contains a person's name</p>
<p style="text-align: center;">94</p> <p>1 proof of identification under H.B. 218?</p> <p>2 A. Certainly. "The following documentation is an</p> <p>3 acceptable form of photo identification under this</p> <p>4 chapter." The chapter is Section 11, Section 63.0101.</p> <p>5 "No. 1, a driver's license or personal</p> <p>6 identification card issued to the person by the</p> <p>7 Department of Public Safety that is not expired or that</p> <p>8 expired no later than two years before the date of</p> <p>9 presentation; No. 2, a United States Military</p> <p>10 identification card that contains the person's</p> <p>11 photograph; No. 3, a valid employee identification card</p> <p>12 that contains the person's photograph and is issued by</p> <p>13 an employer of the person in the ordinary course of the</p> <p>14 employer's business; No. 4, a United States citizenship</p> <p>15 certificate issued by the person that contains the</p> <p>16 person's photograph; 5, a United States passport issued</p> <p>17 to the person; No. 6, a student identification card</p> <p>18 issued by a public or private institution of higher</p> <p>19 education located in the United States that contains</p> <p>20 the person's photograph; No. 7, a license to carry a</p> <p>21 concealed handgun issued to the person by the</p> <p>22 Department of Public Safety; or, No. 8, a valid</p> <p>23 identification card that contains the person's</p> <p>24 photograph and is issued by, A, an agency or</p> <p>25 institution of the Federal Government or, B, an agency,</p>	<p style="text-align: center;">96</p> <p>1 issued to the person by a public library located in the</p> <p>2 state.</p> <p>3 Q. Does it specify that that must be a photo</p> <p>4 identification?</p> <p>5 A. It doesn't speak to that.</p> <p>6 Q. And Item 11, a hunting or fishing license</p> <p>7 issued to the person by the Parks and Wildlife</p> <p>8 Department, that doesn't have to be a photo</p> <p>9 identification either, does it?</p> <p>10 MR. BRISSSENDEN: If you know.</p> <p>11 Q. (BY MS. BERKOWER) Well, based on the language</p> <p>12 in the bill, is what I'm asking.</p> <p>13 A. I don't think so, but you have to show an ID</p> <p>14 to receive a hunting or fishing license.</p> <p>15 Q. This bill does not specify that that license</p> <p>16 has to contain a photograph; is that correct?</p> <p>17 A. I believe it is.</p> <p>18 Q. Item 9 says, "A pilot's license issued to the</p> <p>19 person by the Federal Aviation Administration or other</p> <p>20 authorized agency of the United States" (as read).</p> <p>21 Does that section require the license to</p> <p>22 be a photo ID?</p> <p>23 A. I don't know what a pilot's license looks</p> <p>24 like.</p> <p>25 Q. Well, does the bill say it has to have a</p>



<p style="text-align: center;">97</p> <p>1 photograph?</p> <p>2 MR. BRISSSENDEN: Objection to the extent</p> <p>3 it mischaracterizes the language.</p> <p>4 Q. (BY MS. BERKOWER) I'm asking if this section</p> <p>5 says the pilot's license has to have a photograph on</p> <p>6 it.</p> <p>7 MR. BRISSSENDEN: Same objection.</p> <p>8 Q. (BY MS. BERKOWER) You can still answer.</p> <p>9 MR. BRISSSENDEN: If you know.</p> <p>10 THE WITNESS: I don't know.</p> <p>11 Q. (BY MS. BERKOWER) Okay. Well, turning back</p> <p>12 to Part A on Page 9, it says, "The following</p> <p>13 documentation is an acceptable form of photo</p> <p>14 identification under this chapter" (as read).</p> <p>15 Did I read that correctly?</p> <p>16 A. You did.</p> <p>17 Q. And then Part B says, "The following" -- on</p> <p>18 Page 10 -- sorry -- Line 20, "The following</p> <p>19 documentation is acceptable as proof of identification</p> <p>20 under this chapter" (as read).</p> <p>21 Did I read that correctly?</p> <p>22 A. You did.</p> <p>23 Q. Does Part B require it to be photo</p> <p>24 identification?</p> <p>25 MR. BRISSSENDEN: Same objection. If you</p>	<p style="text-align: center;">99</p> <p>1 Q. (BY MS. BERKOWER) You'll follow the</p> <p>2 instruction, meaning -- I'm a little confused.</p> <p>3 MR. BRISSSENDEN: To the extent that he</p> <p>4 has information or knowledge about House Bill 218 in</p> <p>5 terms of purpose that is a part of his thoughts,</p> <p>6 opinions, mental impressions, analysis, I instruct the</p> <p>7 witness not to disclose that information. But in terms</p> <p>8 of what the general purpose of the bill is, he has</p> <p>9 answered that.</p> <p>10 MS. BERKOWER: Well, I said is there more</p> <p>11 than one purpose to H.B. 218, and then he --</p> <p>12 MR. BRISSSENDEN: I don't believe that was</p> <p>13 the question.</p> <p>14 MS. BERKOWER: Can you read back the</p> <p>15 question, please?</p> <p>16 (The requested portion was read)</p> <p>17 MR. BRISSSENDEN: Same instruction.</p> <p>18 THE WITNESS: I'll follow the</p> <p>19 instruction.</p> <p>20 Q. (BY MS. BERKOWER) Okay. Are you aware of any</p> <p>21 communications where the forms of allowable</p> <p>22 identification under H.B. 218 were discussed?</p> <p>23 A. Well, I'm sure they were discussed on the</p> <p>24 House floor in the public record.</p> <p>25 Q. Are you aware of any nonpublic communications</p>
<p style="text-align: center;">98</p> <p>1 know.</p> <p>2 THE WITNESS: It simply requires it to be</p> <p>3 identification.</p> <p>4 Q. (BY MS. BERKOWER) It doesn't specify photo</p> <p>5 identification?</p> <p>6 A. It doesn't say it is or it isn't.</p> <p>7 Q. So it may be, but it doesn't have to be?</p> <p>8 A. Correct. And I simply answered I don't know</p> <p>9 whether the pilot license has a photo ID or not.</p> <p>10 Q. Okay. So all of the identifications specified</p> <p>11 in Part B may or may not have photographs? It's not</p> <p>12 required?</p> <p>13 A. Correct.</p> <p>14 Q. What was the purpose of H.B. 218?</p> <p>15 MR. BRISSSENDEN: Again, I'll instruct you</p> <p>16 in terms of answering the question, to the extent that</p> <p>17 you know what the general purpose of HB 218 is, you may</p> <p>18 answer the question.</p> <p>19 THE WITNESS: It's to provide confidence</p> <p>20 and trust in the election process.</p> <p>21 Q. (BY MS. BERKOWER) Was there any other purpose</p> <p>22 for H.B. 218?</p> <p>23 MR. BRISSSENDEN: Same instruction.</p> <p>24 THE WITNESS: I'll follow the</p> <p>25 instruction.</p>	<p style="text-align: center;">100</p> <p>1 where the forms of allowable identification under</p> <p>2 H.B. 218 were discussed?</p> <p>3 MR. BRISSSENDEN: Objection. I also</p> <p>4 instruct you not to answer.</p> <p>5 MS. BERKOWER: Well, I didn't ask what</p> <p>6 was -- I didn't ask the nature of the discussions. I</p> <p>7 just asked the general topic. That's a foundational</p> <p>8 question that we've been permitted to answer in prior</p> <p>9 depositions under the court's May 17th order.</p> <p>10 MR. BRISSSENDEN: I believe that you asked</p> <p>11 about the substance of the communications as opposed to</p> <p>12 simply asking him about communications regarding House</p> <p>13 Bill No. 218.</p> <p>14 MS. BERKOWER: I said are you aware of</p> <p>15 communications where the forms of allowable</p> <p>16 identification were discussed.</p> <p>17 MR. BRISSSENDEN: That's right.</p> <p>18 MS. BERKOWER: That's a privileged law</p> <p>19 question?</p> <p>20 MR. BRISSSENDEN: If the question is</p> <p>21 regarding communications regarding House Bill No. 218,</p> <p>22 I'll allow that. But in terms of the substance of the</p> <p>23 communications, I believe your question delves into</p> <p>24 more substance about the communications regarding House</p> <p>25 Bill No. 218. Instruct the witness not to answer.</p>





<p style="text-align: center;">101</p> <p>1 MS. BERKOWER: For the record, we view</p> <p>2 this as a basic foundational question of the type that</p> <p>3 would be permitted or even required under the federal</p> <p>4 rules of the privilege log, and we ask the State to</p> <p>5 withdraw their objection.</p> <p>6 Will you withdraw it?</p> <p>7 MR. BRISSSENDEN: At this time, I'm</p> <p>8 standing on my objection.</p> <p>9 Q. (BY MS. BERKOWER) Will you answer the</p> <p>10 question?</p> <p>11 A. I'll follow his recommendation.</p> <p>12 Q. Are you aware of any communications concerning</p> <p>13 H.B. 218?</p> <p>14 A. No.</p> <p>15 Q. Public or private?</p> <p>16 A. Well, obviously, I'm aware of public</p> <p>17 discussion, as I was a member of the Legislature when</p> <p>18 it was debated on the House floor. But privately, no,</p> <p>19 I'm not.</p> <p>20 Q. Are you -- were you aware of any concerns</p> <p>21 raised on the public record during the development,</p> <p>22 drafting, or considering of H.B. 218 about the impact</p> <p>23 of H.B. 218 on minority voters?</p> <p>24 A. I was not involved in that.</p> <p>25 Q. Were you involved in the public debate on</p>	<p style="text-align: center;">103</p> <p>1 other legislators on the public record?</p> <p>2 MR. BRISSSENDEN: And, again, your</p> <p>3 question is --</p> <p>4 MS. BERKOWER: On the public record.</p> <p>5 MR. BRISSSENDEN: -- your question is</p> <p>6 limited to the public record?</p> <p>7 THE WITNESS: Certainly in debate on the</p> <p>8 floor there were those who were for and against the</p> <p>9 bill.</p> <p>10 Q. (BY MS. BERKOWER) Do you remember what the</p> <p>11 supporters of H.B. 218 on the floor were saying in</p> <p>12 support of the bill?</p> <p>13 A. No.</p> <p>14 Q. Do you remember what the concerns of opponents</p> <p>15 to the bill were as expressed in the public record?</p> <p>16 A. I don't, but we can check the record.</p> <p>17 Q. Are you aware of the existence of any analysis</p> <p>18 or report as entered into the public record that would</p> <p>19 raise any concerns that the bill would have an adverse</p> <p>20 impact on minority voters?</p> <p>21 MR. BRISSSENDEN: Again, your answer is</p> <p>22 limited to what's in the public record.</p> <p>23 MS. BERKOWER: That's all I asked him</p> <p>24 about.</p> <p>25 THE WITNESS: I don't know.</p>
<p style="text-align: center;">102</p> <p>1 H.B. 218?</p> <p>2 A. What does "involved" mean?</p> <p>3 Q. Well, were you present, do you remember?</p> <p>4 A. I'm certain I was present. But, respectfully,</p> <p>5 "involved" would more so mean that I was a part of the</p> <p>6 debate. And I don't think I -- I don't know</p> <p>7 absolutely, but I -- if I participated at all, it was</p> <p>8 extraordinarily limited.</p> <p>9 Q. Okay.</p> <p>10 A. But I was present, to answer that, yes.</p> <p>11 Q. Do you remember the public debate at all for</p> <p>12 H.B. 218?</p> <p>13 A. Not specifically, no.</p> <p>14 Q. What, if anything, do you remember about the</p> <p>15 public debate of H.B. 218?</p> <p>16 A. Pretty much nothing.</p> <p>17 Q. Did you have any role in HB 218 after it was</p> <p>18 filed in the House?</p> <p>19 A. None that I recall.</p> <p>20 Q. During the time that the House considered</p> <p>21 H.B. 218, did you learn of any concerns raised about</p> <p>22 the bill by constituents or interest groups?</p> <p>23 A. Not that I recall.</p> <p>24 Q. During the time the House considered H.B. 218,</p> <p>25 did you learn of any concerns raised about the bill by</p>	<p style="text-align: center;">104</p> <p>1 Q. (BY MS. BERKOWER) H.B. 218 permits a voter to</p> <p>2 show a driver's license in order to vote. Is that</p> <p>3 correct based on what we just reviewed in this on</p> <p>4 Page 9?</p> <p>5 A. That would be Line 17 on Page 9, yes. A</p> <p>6 driver's license or personal identification card that</p> <p>7 has not expired or that expired no later than two years</p> <p>8 before the date of the presentation.</p> <p>9 Q. Didn't supporters of H.B. 218, including</p> <p>10 legislators, publicly indicate that the bill was</p> <p>11 designed to keep noncitizens from voting?</p> <p>12 MR. BRISSSENDEN: Again, the question is</p> <p>13 limited to what's in the public record.</p> <p>14 THE WITNESS: I'm unaware of that.</p> <p>15 Q. (BY MS. BERKOWER) Were you present on the</p> <p>16 floor during the house debate of 218?</p> <p>17 A. We've covered that. Yes.</p> <p>18 Q. Did Representative Betty Brown state on the</p> <p>19 House floor that the bill was, quote, "designed to keep</p> <p>20 illegal aliens, noncitizens, and other people otherwise</p> <p>21 not qualified from voting"?</p> <p>22 MR. BRISSSENDEN: To the extent that the</p> <p>23 question mischaracterizes the statement on the record,</p> <p>24 I would object to the question.</p> <p>25 THE WITNESS: I don't know.</p>





<p style="text-align: center;">105</p> <p>1 Q. (BY MS. BERKOWER) Do you remember her saying</p> <p>2 that?</p> <p>3 A. I don't.</p> <p>4 Q. Did Ms. Brown write this bill?</p> <p>5 A. She was -- I'm not suggesting she didn't. I'm</p> <p>6 telling you I don't recall that she did. I didn't hang</p> <p>7 on every word that day. I barely remember it.</p> <p>8 Q. But answer in answer to the question, she did</p> <p>9 write the bill, correct?</p> <p>10 A. Yes, that certainly appears to be the case. I</p> <p>11 doubt she actually wrote it, but she was the sponsor</p> <p>12 who carried it.</p> <p>13 Q. Okay. Can noncitizens obtain a Texas driver's</p> <p>14 license?</p> <p>15 A. I don't know.</p> <p>16 Q. If they can, how would H.B. 218 have been</p> <p>17 designed to keep illegal aliens and noncitizens from</p> <p>18 voting?</p> <p>19 MR. BRISSENDEN: Objection, calls for</p> <p>20 speculation. Instruct the witness not to disclose</p> <p>21 mental impressions, thoughts, analysis about the</p> <p>22 legislation. Instruct not to answer.</p> <p>23 THE WITNESS: I'll follow the</p> <p>24 instruction.</p> <p>25 MS. BERKOWER: Well, I don't think that</p>	<p style="text-align: center;">107</p> <p>1 A. I don't know.</p> <p>2 Q. Sitting here today, would you agree that if</p> <p>3 the prevention of noncitizens voting was a purpose of</p> <p>4 H.B. 218, H.B. 218 would not actually serve that</p> <p>5 purpose?</p> <p>6 MR. BRISSENDEN: First of all, I object</p> <p>7 that it's a hypothetical and calls for speculation.</p> <p>8 Also, the question is requiring the witness to disclose</p> <p>9 his thoughts and mental impressions and analysis of the</p> <p>10 specific legislation. I instruct you not to answer.</p> <p>11 MS. BERKOWER: Well, I didn't ask him</p> <p>12 with regard to a legislative act that would have taken</p> <p>13 place at the time. I'm asking him, sitting here today,</p> <p>14 looking at the bill's terms, would this prevent</p> <p>15 noncitizens from voting. I'm not asking him to draw on</p> <p>16 anything that he learned as a legislator, nor am I</p> <p>17 asking him to draw on any considerations he took into</p> <p>18 account in voting for the bill. I'm just asking him</p> <p>19 simply sitting here today, would this bill, if enacted,</p> <p>20 prevent noncitizens from voting.</p> <p>21 MR. BRISSENDEN: And my objection is the</p> <p>22 same and my instruction is the same.</p> <p>23 Q. (BY MS. BERKOWER) Are you following that</p> <p>24 instruction?</p> <p>25 A. I'll follow the instruction, yes, ma'am.</p>
<p style="text-align: center;">106</p> <p>1 that question necessarily asks him for privileged</p> <p>2 information. This is just based on, like I said, a</p> <p>3 hypothetical if a noncitizen could get a driver's</p> <p>4 license and H.B. 218 permits a voter to show a driver's</p> <p>5 license to vote.</p> <p>6 MR. BRISSENDEN: It is a hypothetical.</p> <p>7 MS. BERKOWER: How would that prevent the</p> <p>8 noncitizens from voting?</p> <p>9 MR. BRISSENDEN: It is a hypothetical and</p> <p>10 you're specifically asking him for his mental</p> <p>11 impressions, thoughts, opinions about a specific piece</p> <p>12 of legislation that would be privileged. I instruct</p> <p>13 him not to answer.</p> <p>14 Q. (BY MS. BERKOWER) Are you following that</p> <p>15 instruction?</p> <p>16 A. Yes, ma'am, I am.</p> <p>17 Q. Can a noncitizen in Texas contain a concealed</p> <p>18 handgun license?</p> <p>19 A. I don't know.</p> <p>20 Q. Can a noncitizen in Texas obtain a military</p> <p>21 ID, US military ID?</p> <p>22 A. I would assume only military personnel can</p> <p>23 obtain an ID.</p> <p>24 Q. Do you know if there are any noncitizens who</p> <p>25 are military personnel?</p>	<p style="text-align: center;">108</p> <p>1 Q. Do you know if members of the public or</p> <p>2 interest groups opposed H.B. 218?</p> <p>3 A. I'm sure somebody did.</p> <p>4 Q. Do you remember who that was?</p> <p>5 A. Not at all.</p> <p>6 Q. Do you remember what their concerns were?</p> <p>7 A. I do not.</p> <p>8 Q. Do you know if any legislators opposed</p> <p>9 H.B. 218 in the public record?</p> <p>10 A. I believe -- I'm sure the public record would</p> <p>11 indicate that, yes.</p> <p>12 Q. Do you remember who they were or what their</p> <p>13 concerns were?</p> <p>14 A. I do not.</p> <p>15 Q. Do you know of any action taken as part of the</p> <p>16 public record by any legislator in 2007 to address</p> <p>17 concerns raised by the opponents of H.B. 218?</p> <p>18 A. Personally, I do not know.</p> <p>19 Q. Are you aware of any analysis conducted by</p> <p>20 anyone unrelated to H.B. 218 that was made part of the</p> <p>21 public record?</p> <p>22 A. I'm not aware. I'm sure someone did.</p> <p>23 Q. Are you aware of any analysis generally</p> <p>24 conducted by anyone related to H.B. 218, public or</p> <p>25 private?</p>



<p style="text-align: center;">109</p> <p>1 A. I am not, publicly speaking.</p> <p>2 MR. BRISSSENDEN: To the extent that the</p> <p>3 question requires you to disclose information that is</p> <p>4 private, not part of the public record, I instruct you</p> <p>5 not to answer.</p> <p>6 MS. BERKOWER: You would object to the</p> <p>7 question of any analysis conducted by anyone related to</p> <p>8 the bill?</p> <p>9 MR. BRISSSENDEN: That is not part of the</p> <p>10 public record. That is part of his work and analysis</p> <p>11 in relation to the bill, yes.</p> <p>12 MS. BERKOWER: I didn't ask what the</p> <p>13 analysis was. I asked if he was aware -- just aware of</p> <p>14 any analysis. Not how he considered it, not how it</p> <p>15 factored into his deliberations; just if he was aware</p> <p>16 of any analysis related to the bill as conducted at</p> <p>17 all.</p> <p>18 MR. BRISSSENDEN: Same instruction.</p> <p>19 MS. BERKOWER: You also did not object to</p> <p>20 that question earlier in this deposition.</p> <p>21 MR. BRISSSENDEN: To the extent that you</p> <p>22 have knowledge based upon information that is contained</p> <p>23 in the public record, you may answer the question.</p> <p>24 THE WITNESS: I'm -- I don't recall.</p> <p>25 Q. (BY MS. BERKOWER) Are you aware of any</p>	<p style="text-align: center;">111</p> <p>1 Committee that session?</p> <p>2 A. This would be the '09 session?</p> <p>3 Q. Yes.</p> <p>4 A. Yes, I was.</p> <p>5 Q. Do you remember S.B. 362's introduction into</p> <p>6 the house?</p> <p>7 A. Vaguely.</p> <p>8 Q. Since you were a member of the House Elections</p> <p>9 Committee, did you have any role in the development of</p> <p>10 S.B. 362?</p> <p>11 A. I probably did.</p> <p>12 Q. Do you remember?</p> <p>13 A. I don't recall. Not really.</p> <p>14 Q. What was your involvement with the bill once</p> <p>15 it was sent to the House?</p> <p>16 A. Which bill?</p> <p>17 Q. Sorry. S.B. 362.</p> <p>18 A. I don't know. I don't know which one 362 is.</p> <p>19 There were -- I may have filed my own bill that</p> <p>20 session. So specifically speaking, I don't know which</p> <p>21 one 362 is. Not to be difficult, but we -- we really</p> <p>22 don't -- at least I don't, and many members don't,</p> <p>23 recall bills by bill number. And so --</p> <p>24 Q. How do you recall them?</p> <p>25 A. By bill on voter ID. Or Betty Brown had a</p>
<p style="text-align: center;">110</p> <p>1 studies about the number of registered voters without</p> <p>2 allowable forms of ID under H.B. 218 that were entered</p> <p>3 into the public record?</p> <p>4 A. I don't remember.</p> <p>5 Q. Are you aware of any attempt by any legislator</p> <p>6 in 2007 to determine who among registered voters did</p> <p>7 not possess the forms of identification required by</p> <p>8 H.B. 218 that were discussed in the public record?</p> <p>9 A. I do not remember.</p> <p>10 Q. Are you aware of any attempt to determine the</p> <p>11 impact of H.B. 218 on minority voters that was included</p> <p>12 in the public record?</p> <p>13 A. I'm not aware, no.</p> <p>14 Q. Did the House pass H.B. 218?</p> <p>15 A. I don't remember.</p> <p>16 Q. Are you aware of a photographic -- excuse me.</p> <p>17 Are you aware of a photographic voter</p> <p>18 identification bill that was introduced in the</p> <p>19 81st Legislature in 2009?</p> <p>20 A. There were several filed.</p> <p>21 Q. Are you aware of any?</p> <p>22 A. I'm aware that several were filed, yes.</p> <p>23 Q. You're aware of a few?</p> <p>24 A. Uh-huh.</p> <p>25 Q. Were you a member of the House Elections</p>	<p style="text-align: center;">112</p> <p>1 bill on voter ID, or what have you.</p> <p>2 Q. What if I told you --</p> <p>3 MR. BRISSSENDEN: I was just going to say</p> <p>4 it's now 1:00, and we haven't taken a break for lunch.</p> <p>5 Whenever you get to a good time to break, maybe we can</p> <p>6 take a break and get some food.</p> <p>7 MS. BERKOWER: We can take a break now.</p> <p>8 How long do you want to take a break for?</p> <p>9 THE WITNESS: We can go ahead and finish</p> <p>10 this.</p> <p>11 MR. BRISSSENDEN: Are you at a good</p> <p>12 breaking point? How long would you like to take a</p> <p>13 break for?</p> <p>14 MS. BERKOWER: I think 40 minutes is what</p> <p>15 it takes. I guess we'll be back at 1:35.</p> <p>16 (Recess from 12:53 p.m. to 1:57 p.m.)</p> <p>17 Q. (BY MS. BERKOWER) I don't remember exactly</p> <p>18 where we left off. If I repeat a question or two, I'm</p> <p>19 sorry.</p> <p>20 A. No problem.</p> <p>21 Q. So we were talking about the 81st Legislature</p> <p>22 in 2009.</p> <p>23 A. Yes.</p> <p>24 Q. Are you aware that photo -- photographic voter</p> <p>25 identification bills were introduced in that session?</p>



<p style="text-align: center;">113</p> <p>1 A. Yes.</p> <p>2 Q. Do you remember in particular S.B. 362?</p> <p>3 A. Not specifically, but generally I'm sure it</p> <p>4 existed.</p> <p>5 Q. Were you a member of the House Elections</p> <p>6 Committee that year?</p> <p>7 A. In '09 I was, yes.</p> <p>8 Q. And did you have any role in the development</p> <p>9 of S.B. 62 due to your position on that committee?</p> <p>10 A. No, not if it was a senate bill I would not</p> <p>11 have.</p> <p>12 Q. Once the bill was sent to the House, what was</p> <p>13 your involvement given that you were on the elections</p> <p>14 committee?</p> <p>15 A. Simply to -- I'm assuming that the committee</p> <p>16 heard the bill, and I simply would have been a member</p> <p>17 of the committee while the bill was being heard for</p> <p>18 public testimony and discussion.</p> <p>19 Q. I have what's been -- I know this has been</p> <p>20 previously marked, but I'm not sure what number it is.</p> <p>21 So we'll just introduce it again. This is going to be</p> <p>22 Exhibit 434.</p> <p>23 (Exhibit No. 434 marked)</p> <p>24 Q. (BY MS. BERKOWER) Do you know what this is?</p> <p>25 A. Senate Bill No. 362 by Senator Frazier and</p>	<p style="text-align: center;">115</p> <p>1 it does permit a Texas Department of Public Safety</p> <p>2 issued license.</p> <p>3 Q. And a qualifying on that was it must have</p> <p>4 expired no earlier than two years before the date of</p> <p>5 the presentation?</p> <p>6 A. Correct.</p> <p>7 Q. Does the bill permit identification issued by</p> <p>8 an agency or institution of the Federal Government?</p> <p>9 And I'll direct your attention to Page 6.</p> <p>10 A. Yes. If an agency or institution of the</p> <p>11 Federal Government or an agency or institution of a</p> <p>12 political subdivision of this state, on Page 8 -- on</p> <p>13 Line 18 and 19 on Page 6.</p> <p>14 Q. The part of the bill that -- that permits an</p> <p>15 identification from an agency institution or political</p> <p>16 subdivision of the state, would that include state</p> <p>17 institution of higher education, like student IDs?</p> <p>18 A. I -- I do not know what the -- what that would</p> <p>19 have included. I don't know. It certainly could have.</p> <p>20 I do not know for certain.</p> <p>21 Q. Are the state universities of Texas an</p> <p>22 institution of the state?</p> <p>23 A. State -- state-funded ones, yes, I guess they</p> <p>24 would be considered that.</p> <p>25 Q. Does the bill permit employee identification</p>
<p style="text-align: center;">114</p> <p>1 others.</p> <p>2 Q. Take a minute to review the document and let</p> <p>3 me know when you're finished.</p> <p>4 A. (Reading).</p> <p>5 Okay.</p> <p>6 Q. Do you remember this bill now that you've</p> <p>7 taken a look at it?</p> <p>8 A. Generally speaking, yes.</p> <p>9 Q. Do you remember what forms of identification</p> <p>10 were permitted under S.B. 362?</p> <p>11 A. I would have to refer to the bill to be able</p> <p>12 to do that.</p> <p>13 Q. Okay. I think it starts on Page 5.</p> <p>14 A. "The following identification is an acceptable</p> <p>15 form of photo identification under this chapter, a</p> <p>16 driver's license or personal identification card issued</p> <p>17 to the person by the Department of Public Safety that</p> <p>18 is not expired or that expired no earlier than two</p> <p>19 years before the date of presentation" (as read).</p> <p>20 Q. Okay. I'll just ask you questions. You don't</p> <p>21 have to read out loud every single --</p> <p>22 A. Okay.</p> <p>23 Q. So does it permit a Texas driver's license?</p> <p>24 That's on Page 5.</p> <p>25 A. Yeah, Page 5. On Page 5, Lines 22, 23, and 24</p>	<p style="text-align: center;">116</p> <p>1 to be used?</p> <p>2 A. Let's see.</p> <p>3 Q. I guess I can make that question more</p> <p>4 specific. Does that -- does the bill permit employee</p> <p>5 identification to be used if it's issued by an agency</p> <p>6 or institution of the Federal Government or an agency,</p> <p>7 institution or political subdivision of Texas?</p> <p>8 MR. BRISSENDEN: Objection, compound.</p> <p>9 Q. (BY MS. BERKOWER) Did you understand the</p> <p>10 question?</p> <p>11 A. Could you repeat it?</p> <p>12 Q. Sure. I can break it down. On Page 6,</p> <p>13 Line 16 --</p> <p>14 A. Okay.</p> <p>15 Q. -- the bill permits a valid identification</p> <p>16 card that contains the person's photograph and is</p> <p>17 issued by -- and then it says --</p> <p>18 A. Federal Government.</p> <p>19 Q. -- Federal Government agency or an agency,</p> <p>20 institution, or political subdivision of this state.</p> <p>21 Does that -- does that mean that employee</p> <p>22 identification issued by those authorities containing</p> <p>23 the person's photograph would be permitted?</p> <p>24 A. I guess logically that would follow, yes.</p> <p>25 Q. And then at Line 22 there's another set of</p>



<p style="text-align: center;">117</p> <p>1 documentation that's acceptable as proof of</p> <p>2 identification, and that goes on Page 6 and 7, and</p> <p>3 those are non- -- those forms of identification do not</p> <p>4 have to be photographic identification; is that</p> <p>5 correct?</p> <p>6 A. Let me review them. Many of them appear not</p> <p>7 to require a photo or have a photo.</p> <p>8 Q. And I know you've taken a break now, but if</p> <p>9 you can remember back to H.B. 218.</p> <p>10 A. Okay.</p> <p>11 Q. And you can take a look to review if you'd</p> <p>12 like. Does it appear that for the most part S.B. 362</p> <p>13 and H.B. 218 require the same identification to vote?</p> <p>14 A. No, not really. If you look at Page 10 of</p> <p>15 H.B. 218 under Section B, No. 1 is a copy of a current</p> <p>16 utility bill, bank statement, government check,</p> <p>17 paycheck, or other relevant document that shows the</p> <p>18 name and address of the voter, whereas No. 1 under</p> <p>19 Senate Bill 362, Page 6 is a voter's voter registration</p> <p>20 certificate. So that's the difference.</p> <p>21 Q. Okay. But it does still permit a current</p> <p>22 utility bill, paycheck, or government check -- paycheck</p> <p>23 or other government document that shows the name and</p> <p>24 address of the voter?</p> <p>25 A. Correct, but they also have listed the voter's</p>	<p style="text-align: center;">119</p> <p>1 ensure the integrity and confidence in the elections in</p> <p>2 Texas.</p> <p>3 Q. (BY MS. BERKOWER) Was there any evidence of</p> <p>4 these problems in the public record?</p> <p>5 A. I don't know.</p> <p>6 Q. Did anyone explain how the terms of this bill</p> <p>7 would solve any of the problems related to in-person</p> <p>8 voter fraud in comparison to current -- current law on</p> <p>9 the public record?</p> <p>10 A. I do believe there was a discussion of that on</p> <p>11 the House floor, but I don't know absolutely.</p> <p>12 Q. Do you recall what the explanation was of how</p> <p>13 the terms of this bill would solve any problems related</p> <p>14 to in-person voter fraud as expressed on the public</p> <p>15 record?</p> <p>16 A. Specifically, I do not.</p> <p>17 Q. Do you know how the terms of this bill would</p> <p>18 solve any problems related to in-person voter fraud in</p> <p>19 comparison to current law?</p> <p>20 MR. BRISSENDEN: I would instruct the</p> <p>21 witness that the question requires you to divulge your</p> <p>22 thoughts, opinions, mental impressions, and analysis of</p> <p>23 the legislation and I instruct you not to answer.</p> <p>24 MS. BERKOWER: It's actually just a yes</p> <p>25 or no question, do you know. I did not ask for the</p>
<p style="text-align: center;">118</p> <p>1 voter registration certificate, which is -- yes, which</p> <p>2 is the difference there.</p> <p>3 Q. Okay. So -- but -- so in 362 they added voter</p> <p>4 register cards to --</p> <p>5 A. It appears to, yes, yes.</p> <p>6 Q. -- be one of the non-photo ID that was</p> <p>7 permitted under that Section B; is that correct?</p> <p>8 A. Yes, that seems to be the case.</p> <p>9 Q. Are there other significant differences that</p> <p>10 you know of?</p> <p>11 MR. BRISSENDEN: Objection, form.</p> <p>12 THE WITNESS: No, it appears to be very</p> <p>13 similar.</p> <p>14 Q. (BY MS. BERKOWER) And to be clear, both of --</p> <p>15 both bills would permit a voter to present non-photo</p> <p>16 identification under some circumstances to be allowed</p> <p>17 to vote; is that correct?</p> <p>18 A. It appears to be the case, yes.</p> <p>19 Q. What were the purposes of -- sorry --</p> <p>20 S.B. 362?</p> <p>21 MR. BRISSENDEN: Again, I'm going to</p> <p>22 instruct the witness that in terms of the question as</p> <p>23 it is asking about the general purpose of the bill in</p> <p>24 the legislation, you may answer.</p> <p>25 THE WITNESS: Generally speaking, to</p>	<p style="text-align: center;">120</p> <p>1 substance of what he knows.</p> <p>2 MR. BRISSENDEN: If you're limited to</p> <p>3 just whether he knows or not, I'll allow that.</p> <p>4 THE WITNESS: Do you mind repeating the</p> <p>5 question?</p> <p>6 Q. (BY MS. BERKOWER) Sure. Do you know if the</p> <p>7 terms of this bill would solve any problems related to</p> <p>8 in-person voter fraud in comparison to current law?</p> <p>9 A. Generally the belief is that it would improve</p> <p>10 that situation.</p> <p>11 Q. When you say "improve that situation," what</p> <p>12 are you referring to?</p> <p>13 MR. BRISSENDEN: Now I'm going to have to</p> <p>14 instruct him --</p> <p>15 MS. BERKOWER: Well, I just think the</p> <p>16 answer is not clear. So --</p> <p>17 MR. BRISSENDEN: Now you're asking him to</p> <p>18 clarify and offer his opinion and explain his answer</p> <p>19 beyond just providing an answer as to whether or not he</p> <p>20 has knowledge or not. That delves into his mental</p> <p>21 impressions and thoughts and opinions, and I instruct</p> <p>22 you not to answer the question.</p> <p>23 MS. BERKOWER: I understand. But I asked</p> <p>24 a yes or no question and he didn't respond with a yes</p> <p>25 or no answer. He responded with an answer that,</p>



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1 frankly, was nonresponsive to a yes or no question, and  
2 so I didn't understand what he meant. That's why I  
3 asked for the clarification. If you'd rather, I can  
4 re-ask the question if he can answer yes or no.

5 MR. BRISSENDEN: If he can answer the  
6 question with a yes or no. It was a rather long  
7 question that doesn't necessarily allow for a simple  
8 yes or no answer without an explanation. And so with  
9 that, I'm going to instruct him not to answer the  
10 question.

11 MS. BERKOWER: Can I re-ask the question?

12 MR. BRISSENDEN: You can certainly  
13 rephrase it, certainly.

14 Q. (BY MS. BERKOWER) Do you know if the terms of  
15 this bill would solve any problems related to in-person  
16 voter fraud?

17 MR. BRISSENDEN: And so the way that  
18 question is phrased is do you know, yes or no? Do you  
19 have that knowledge?

20 THE WITNESS: Being I'm not an expert, I  
21 would say no.

22 Q. (BY MS. BERKOWER) Do you know if the terms of  
23 this bill would solve problems with current law?

24 MR. BRISSENDEN: Again, the way the  
25 question is phrased is do you know, yes or no.

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1 kind of the House thing and the Senate does the Senate  
2 thing and we don't have that much communication.

3 Q. What are the examples of committees that have  
4 more interaction between House and Senate?

5 A. I don't think it's specific to a committee. I  
6 think maybe it's more specific to members, if that  
7 makes sense. There may be a specific time or instance  
8 or member relationship where there may be more  
9 interaction than otherwise.

10 Q. Are there any members that you interact with  
11 regularly in the Senate?

12 A. Not to be difficult, obviously regularly is,  
13 you know, definable. But I would -- I would deal more  
14 with the state senators who have representation  
15 overlapping with my House district, but generally  
16 speaking, I don't have any significant interaction with  
17 Senate members.

18 Q. Okay. Did you have communications with Senate  
19 members concerning your duties on the elections  
20 committee in 2009?

21 A. Not -- no, not really. And I want to be  
22 respectful. I mean, I think Frazier -- did Senator  
23 Frazier and I visit with each other during that  
24 session, yes. Did we have visits about voter ID, no,  
25 not really.

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1 THE WITNESS: This bill being Senate  
2 Bill 362 with current law being --

3 Q. (BY MS. BERKOWER) The current practice.

4 A. -- the current practice, do I know -- I  
5 apologize. Do I know what now? Would it solve  
6 problems?

7 Q. Do you know if the terms of 362 would solve  
8 problems related to in-person fraud under current law?

9 MR. BRISSENDEN: Do you have that  
10 knowledge?

11 THE WITNESS: No, I don't have that  
12 knowledge. I'm not an expert.

13 Q. (BY MS. BERKOWER) Did you follow the bill at  
14 all while it was in the Senate as part of your duties  
15 on the election committee?

16 A. I did not, no.

17 Q. How does that work just as a general matter if  
18 you're on a committee that has a parallel committee in  
19 the Senate? Do you interact at all?

20 A. In a general matter, it -- it varies greatly.  
21 I would suggest that more often than not you don't  
22 particularly interact. I mean, obviously there might  
23 be conversations where there's a significant  
24 interaction or conversation. But, respectfully,  
25 obviously, that can vary. But largely the House does

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1 Q. So the visits covered other topics?

2 A. Usually of no substance.

3 Q. Okay. In April 2009, did some House members  
4 sign a pledge circulated by the Republican Party of  
5 Texas concerning voter ID?

6 A. I believe you're correct, yes, I think so.

7 Q. Did you sign the pledge?

8 A. Not to be -- I don't remember. I think I  
9 didn't, but I don't really recall. I'm sure you have  
10 the records.

11 Q. I have what's going to be Exhibit 435.

12 A. Thank you.

13 (Exhibit No. 435 marked)

14 Q. (BY MS. BERKOWER) Take a minute to review it  
15 and let me know when you're done.

16 A. (Reading).

17 Okay. I reviewed it.

18 Q. Can you describe generally what the pledge  
19 required members to agree to?

20 A. On principles concerning what the bill must  
21 contain are clear. This bill must ensure a valid photo  
22 identification as needed to vote, take effect at the  
23 next possible uniform election date, be free of any  
24 restriction -- registration, I apologize, registration  
25 requirement, such as same day voter registration that





<p style="text-align: center;">125</p> <p>1 dilutes the intent of the bill, which is ensuring fair</p> <p>2 and accurate election, and increase criminal penalties</p> <p>3 for voter fraud and registration. And then members</p> <p>4 signing their commitment to those principles as stated.</p> <p>5 Q. Are you on the list of members who signed the</p> <p>6 commitment?</p> <p>7 A. It appears I am not.</p> <p>8 Q. If you turn to Page 4 of the document, the</p> <p>9 last page.</p> <p>10 A. Yes, ma'am.</p> <p>11 Q. Do you see the first full paragraph, the last</p> <p>12 sentence says, "Representative Dennis Bonnen, as a</p> <p>13 member of the House Elections Committee, has issued a</p> <p>14 principle stating explaining his revision below" (as</p> <p>15 read).</p> <p>16 A. Yes.</p> <p>17 Q. On Tuesday -- and then it quotes you as</p> <p>18 saying, "On Tuesday, many Texas House Republican caucus</p> <p>19 members issued a statement calling for four principles</p> <p>20 to be included in the voter ID bill. While I choose to</p> <p>21 stand firmly behind these key elements, I choose not to</p> <p>22 add my name to the statement" (as read).</p> <p>23 Do you remember saying that?</p> <p>24 A. I do.</p> <p>25 Q. Did you, in fact, not choose to add your name</p>	<p style="text-align: center;">127</p> <p>1 witness and I'm not being examined here today. I will</p> <p>2 say to you that I'm standing by the objection and the</p> <p>3 instruction. Your question didn't talk about promises.</p> <p>4 It asked about why he chose not to add his name to the</p> <p>5 statement, and that asks for his mental impressions.</p> <p>6 I'm going to instructing the witness not to answer.</p> <p>7 Q. (BY MS. BERKOWER) Are you going to follow</p> <p>8 your counsel's instruction?</p> <p>9 A. Yes, ma'am.</p> <p>10 Q. Did you, in fact, make any promises to support</p> <p>11 a particular type of voter identification legislation?</p> <p>12 MR. BRISSENDEN: I'm again going to</p> <p>13 instruct the witness not to answer the question based</p> <p>14 upon legislative privilege.</p> <p>15 MS. BERKOWER: Can you explain your basis</p> <p>16 for that objection, given the relative set of authority</p> <p>17 on that point?</p> <p>18 MR. BRISSENDEN: I'm not going to be</p> <p>19 examined here today during the deposition, but I'm</p> <p>20 standing on the privilege, and based upon the court's</p> <p>21 orders of -- and as I understand them from yesterday,</p> <p>22 June 5th, May 17th, and May 21st.</p> <p>23 MS. BERKOWER: Can you point to any</p> <p>24 direct citation in any of those opinions just for my</p> <p>25 personal information that supports your objection on</p>
<p style="text-align: center;">126</p> <p>1 to the statement?</p> <p>2 A. That is correct.</p> <p>3 Q. Why didn't you add your name to the statement?</p> <p>4 MR. BRISSENDEN: I'm going to instruct</p> <p>5 the witness at this time not to disclose, in response</p> <p>6 to the question, information with thoughts and mental</p> <p>7 impressions, analysis regarding the voter ID bill and</p> <p>8 in connection with your query. I instruct you not to</p> <p>9 answer.</p> <p>10 MS. BERKOWER: Well, we view promises --</p> <p>11 I think it's actually pretty well settled that promises</p> <p>12 concerning support of legislation, agreeing to</p> <p>13 introduce legislation are actually not privileged under</p> <p>14 the Supreme Court case of United States versus Saltsky</p> <p>15 [phonetic] --</p> <p>16 THE REPORTER: Saltsky?</p> <p>17 MS. BERKOWER: I will get the name for</p> <p>18 you in a second.</p> <p>19 And that's why usually that question is</p> <p>20 proper. Are you willing to withdraw your objection on</p> <p>21 that basis?</p> <p>22 MR. BRISSENDEN: No, I'm not.</p> <p>23 MS. BERKOWER: Are you aware of that</p> <p>24 Supreme Court case?</p> <p>25 MR. BRISSENDEN: I'm not -- I'm not the</p>	<p style="text-align: center;">128</p> <p>1 this point?</p> <p>2 MR. BRISSENDEN: I have stated my</p> <p>3 objection.</p> <p>4 Q. (BY MS. BERKOWER) Okay. Are you going to</p> <p>5 answer the question?</p> <p>6 A. No, ma'am.</p> <p>7 Q. I think, then, the quotation -- the pledge</p> <p>8 continues to quote you after that paragraph.</p> <p>9 A. Well --</p> <p>10 Q. Sorry.</p> <p>11 A. This isn't a pledge. It's simply a statement.</p> <p>12 Q. Sorry. The pledge ends with the end of the --</p> <p>13 you're right. Well, this -- this article or</p> <p>14 communication, whatever it is, from the Republican</p> <p>15 Party of Texas --</p> <p>16 MR. BRISSENDEN: For the record, it's a</p> <p>17 press release dated Wednesday, April 29th, 2009.</p> <p>18 Q. (BY MS. BERKOWER) Okay. So this press</p> <p>19 release quotes you; is that a fair statement?</p> <p>20 A. That is -- that is a fair statement.</p> <p>21 Q. And it continues to quote you saying, "As a</p> <p>22 member of the election committee, my focus remains to</p> <p>23 advance this bill to the House floor. I will not sign</p> <p>24 a commitment that threatens to kill the bill by</p> <p>25 preventing it from being voted out of committee and</p>





<p style="text-align: center;">129</p> <p>1 which undermines the many long hours we have worked" --</p> <p>2 THE REPORTER: Prevented it from?</p> <p>3 Q. (BY MS. BERKOWER) -- "being voted out</p> <p>4 committed and which undermines the many long hours we</p> <p>5 have worked to send it to the floor so that my</p> <p>6 colleagues will then have the opportunity to cast votes</p> <p>7 for these important principles" (as read).</p> <p>8 Is that an accurate reading? Did that</p> <p>9 accurately quote you?</p> <p>10 A. Yes, that I will not sign a commitment that</p> <p>11 threatens to kill the bill, and therefore, yes.</p> <p>12 Q. How would the pledge have killed the bill?</p> <p>13 MR. BRISSENDEN: Again, I'm going to</p> <p>14 instruct the witness that -- not to divulge or disclose</p> <p>15 your mental impressions, mental thoughts, analysis, and</p> <p>16 opinions regarding voter IDs and voter ID bill. I'll</p> <p>17 instruct you not to answer at this time.</p> <p>18 Q. (BY MS. BERKOWER) I think the press release</p> <p>19 then quotes you further and says, "My further</p> <p>20 commitment to advancing a strong executive voter ID</p> <p>21 bill has not wavered. One can simply look at the voter</p> <p>22 bill that I filed, H.B. 3556, to see where I stand on</p> <p>23 the issues" (as read). Is that an accurate quote?</p> <p>24 A. That is.</p> <p>25 Q. Do you remember House Bill 3556?</p>	<p style="text-align: center;">131</p> <p>1 A. No, we can go ahead.</p> <p>2 Q. Turning to Page 5, on line -- well,</p> <p>3 Section 10(a)(1), that starts on Line 13.</p> <p>4 A. Yes, ma'am.</p> <p>5 Q. It requires -- it says, "A voter could</p> <p>6 present, as an acceptable form of photo identification,</p> <p>7 a driver's license or personal identification card</p> <p>8 issued by the Department of Public Safety that is not</p> <p>9 expired or that has expired no earlier than two years</p> <p>10 before the date of presentation" (as read).</p> <p>11 Is that -- do you see that there?</p> <p>12 A. I see that on Lines 13 through 16 on Page 5,</p> <p>13 that's correct.</p> <p>14 Q. And then the next section permits a US</p> <p>15 military identification card to be used if there's a</p> <p>16 photograph on it. Is that accurate?</p> <p>17 A. It contains the person's photograph, that's</p> <p>18 correct.</p> <p>19 Q. And then line -- Section 3 there says, "A</p> <p>20 valid employee identification card that contains the</p> <p>21 person's photograph and is issued by an employer of the</p> <p>22 person in the ordinary course of the employer's</p> <p>23 business" (as read). Do you see that?</p> <p>24 A. Yes, that is correct, on Page 5.</p> <p>25 Q. And then turning to Page 6, skipping down a</p>
<p style="text-align: center;">130</p> <p>1 A. Not very specifically, no. Certainly it</p> <p>2 exists, but the detail of which, no, I do not.</p> <p>3 Q. Okay. I have what's going to be Exhibit 436.</p> <p>4 MS. PERALES: While you're marking the</p> <p>5 exhibit, I just want to say for the record thank you</p> <p>6 for allowing us to come in late. We had to be at the</p> <p>7 start of the Anchia in another location. So thank you</p> <p>8 for your patience.</p> <p>9 THE WITNESS: No problem.</p> <p>10 (Exhibit No. 436 marked)</p> <p>11 Q. (BY MS. BERKOWER) Do you recognize this</p> <p>12 document?</p> <p>13 A. I do, yes.</p> <p>14 Q. What is it?</p> <p>15 A. It is House Bill 3556 by Representative</p> <p>16 Bonnen, myself.</p> <p>17 Q. What does this bill do?</p> <p>18 A. It provides for integrity and insurance of</p> <p>19 confidence in election in the State of Texas.</p> <p>20 Q. Does it amend the current election code to</p> <p>21 provide additional voter ID requirements?</p> <p>22 A. It appears to amend Subchapter A, Chapter 15</p> <p>23 of the election code.</p> <p>24 Q. So turning to Page 5 -- do you need a minute</p> <p>25 to review it?</p>	<p style="text-align: center;">132</p> <p>1 few sections on Line 4, it permits a student</p> <p>2 identification card issued by a public or private</p> <p>3 institution of higher education located in Texas that</p> <p>4 contains the person's photograph. Do you see that?</p> <p>5 A. Yes. It's No. 6.</p> <p>6 Q. And then Section 7 permits a voter to present</p> <p>7 a license to carry a concealed handgun. Do you see</p> <p>8 that?</p> <p>9 A. Yes, offered by DPS.</p> <p>10 Q. Section 8 then permits a valid identification</p> <p>11 card that contains the person's photograph and is</p> <p>12 issued by the either an agency or institution of the</p> <p>13 Federal Government or an agency, institution, or</p> <p>14 political subdivision of this state. Do you see that?</p> <p>15 A. Yes, ma'am.</p> <p>16 Q. And then the next section provides for</p> <p>17 additional documentation that's acceptable as proof of</p> <p>18 identification. Do you see that?</p> <p>19 A. I do.</p> <p>20 Q. And it includes a number of items. It looked</p> <p>21 like you could present under part one -- could you</p> <p>22 present a copy of a current utility bill, bank</p> <p>23 statement, government check, paycheck, or other</p> <p>24 government document that shows the name and address of</p> <p>25 the voter?</p>



<p style="text-align: center;">133</p> <p>1 A. Lines 18 through 20 on Page 6 say that, yes.</p> <p>2 Q. And the next section says, "Official mail</p> <p>3 addressed to the person by name of a governmental</p> <p>4 entity"?</p> <p>5 A. Correct.</p> <p>6 Q. The next section says, "A certified copy of a</p> <p>7 birth certificate or other document confirming birth</p> <p>8 that is admissible in a court of law and establish the</p> <p>9 person's identity" (as read). Yes?</p> <p>10 A. Correct.</p> <p>11 Q. The next section permits citizenship papers;</p> <p>12 is that correct?</p> <p>13 A. Yes, issued to that person, correct.</p> <p>14 Q. The next section permits an original or</p> <p>15 certified copy of the person's marriage license or</p> <p>16 divorce decree; is that correct?</p> <p>17 A. That is correct.</p> <p>18 Q. The next section permits court records that</p> <p>19 the person's adoption, name change, or sex change; is</p> <p>20 that correct?</p> <p>21 A. That is correct.</p> <p>22 Q. And then the next section permits an</p> <p>23 identification card issued to the person by a</p> <p>24 governmental entity of this state or the United States</p> <p>25 for the purposes of obtaining public benefits,</p>	<p style="text-align: center;">135</p> <p>1 proof -- proof of identification; is that correct?</p> <p>2 A. Can you repeat -- say that again?</p> <p>3 Q. This section of the bill, which starts on</p> <p>4 Line 16 of Page 5 --</p> <p>5 A. Page 6.</p> <p>6 Q. Sorry, Page 6, yes, right -- permits 11</p> <p>7 categories of non-photo ID that would be acceptable as</p> <p>8 proof of identification for voting?</p> <p>9 A. Yes, that's correct.</p> <p>10 MR. BRISSENDEN: Objection to the extent</p> <p>11 the question mischaracterizes the bill -- the language</p> <p>12 in the bill.</p> <p>13 Q. (BY MS. BERKOWER) You may answer. Does it,</p> <p>14 in fact, do that?</p> <p>15 A. I guess it does.</p> <p>16 Q. Now, turning back to the press release we were</p> <p>17 just looking at on the last page, when you said this</p> <p>18 was an accurate quotation of you --</p> <p>19 A. Uh-huh.</p> <p>20 Q. -- you said, "One can simply look at the voter</p> <p>21 ID bill that I filed, H.B. 3556, to see where I stand</p> <p>22 on the issues" (as read).</p> <p>23 A. Yes.</p> <p>24 Q. Do you see that?</p> <p>25 A. I do.</p>
<p style="text-align: center;">134</p> <p>1 including veteran's benefits, Medicaid, or Medicare.</p> <p>2 Do you see that?</p> <p>3 A. I do see it.</p> <p>4 Q. Then it further permits a temporary driving</p> <p>5 permit issued to the person by the Department of Public</p> <p>6 Safety; is that correct?</p> <p>7 A. It is correct.</p> <p>8 Q. And then the next section permits a pilot's</p> <p>9 license issued to the person by the Federal Aviation</p> <p>10 Administration or another authorized agency of the</p> <p>11 United States. Do you see that?</p> <p>12 A. I do.</p> <p>13 Q. And then there's two more. One -- the next is</p> <p>14 a library card that contains the person's name issued</p> <p>15 to the person by a public library located in this</p> <p>16 state; is that correct?</p> <p>17 A. It is correct.</p> <p>18 Q. Or -- and then the last -- the last one,</p> <p>19 No. 11 there says, "A hunting or fishing license issued</p> <p>20 to the person by the Parks and Wildlife Department" (as</p> <p>21 read). Is that correct?</p> <p>22 A. Yes.</p> <p>23 Q. So this section that starts on Page 6 and runs</p> <p>24 to Page 7 permits, it looks like, 11 categories of</p> <p>25 non-photo identification that are permitted for</p>	<p style="text-align: center;">136</p> <p>1 Q. Does that mean that this bill 3556 documents</p> <p>2 or includes the types of voter identification that you</p> <p>3 find acceptable for voter ID?</p> <p>4 MR. BRISSENDEN: I'm going to instruct</p> <p>5 the witness that to the extent that the question</p> <p>6 requires you to divulge your mental impressions, your</p> <p>7 thoughts, analysis of House Bill 3556, I would instruct</p> <p>8 you not to answer. To the extent you can answer the</p> <p>9 question without disclosing information that is</p> <p>10 privileged, you may answer.</p> <p>11 THE WITNESS: I will use my privilege.</p> <p>12 Q. (BY MS. BERKOWER) Would you agree, though,</p> <p>13 that you introduced a bill into the House that would</p> <p>14 permit a voter to show an employee ID card as proof of</p> <p>15 identification? That's Page 5, Line 23.</p> <p>16 A. I'm sorry. Repeat that again.</p> <p>17 Q. I said would you agree that you introduced a</p> <p>18 bill into the House that would allow a voter to present</p> <p>19 employee identification cards as proof of</p> <p>20 identification to vote?</p> <p>21 A. No. I filed a bill that would allow for valid</p> <p>22 employee identification card that contains a person's</p> <p>23 photograph that is issued by an employed person in the</p> <p>24 ordinary course of the employer's business.</p> <p>25 Q. In order to vote?</p>



<p style="text-align: center;">137</p> <p>1 A. Correct.</p> <p>2 Q. And you introduced -- is it true that you</p> <p>3 introduced a bill into the House that would allow a</p> <p>4 voter to present a driver's license or personal</p> <p>5 identification card issued by the Texas Department of</p> <p>6 Public Safety that had expired within two years before</p> <p>7 the date of presentation? Now I'm looking at Lines 13</p> <p>8 through 16 on Page 5.</p> <p>9 A. I don't know if I heard you exactly. But that</p> <p>10 has not expired or that expired no earlier than two</p> <p>11 years before the date of the presentation, yes.</p> <p>12 Q. Yes. Isn't it true -- and now I'm looking at</p> <p>13 Page 6, Line 4 -- isn't it true that you introduced a</p> <p>14 bill into the House that would allow a voter to use a</p> <p>15 student identification card issued by a public or</p> <p>16 private institution of higher education located in</p> <p>17 Texas that contains the person's photograph in order to</p> <p>18 vote?</p> <p>19 A. That is correct.</p> <p>20 Q. Now I'm looking at Line 12. Isn't it true</p> <p>21 that you would allow a voter to present photographic</p> <p>22 identification that has not expired from an agency or</p> <p>23 institution of the Federal Government in order to vote?</p> <p>24 A. Correct.</p> <p>25 Q. And you introduced a bill into the House that</p>	<p style="text-align: center;">139</p> <p>1 MR. BRISSENDEN: I'm going to instruct</p> <p>2 the witness not to -- instruct you not to disclose</p> <p>3 thoughts, opinions, mental impressions, analysis of the</p> <p>4 legislation and instruct you not to answer.</p> <p>5 THE WITNESS: I would agree with that.</p> <p>6 Q. (BY MS. BERKOWER) Okay. Well, turning back</p> <p>7 to Page 1 of the pledge.</p> <p>8 A. Certainly.</p> <p>9 Q. Does the bill that you introduce ensure that a</p> <p>10 valid photo identification is needed to vote?</p> <p>11 MR. BRISSENDEN: I'm going to instruct</p> <p>12 the witness not to disclose your mental impression,</p> <p>13 thoughts and opinions, analysis of the legislation.</p> <p>14 You may answer as to what the general purpose of the</p> <p>15 legislation was.</p> <p>16 Q. (BY MS. BERKOWER) I'll rephrase the question,</p> <p>17 actually. Item 1 on the pledge says that, "The bill</p> <p>18 must ensure a valid photo identification is needed to</p> <p>19 vote" (as read). Is that an accurate -- did I</p> <p>20 accurately read that?</p> <p>21 A. You did accurately read it.</p> <p>22 Q. Isn't it true that the bill you introduced in</p> <p>23 the House does not require a valid photo identification</p> <p>24 in order to vote?</p> <p>25 A. No, it does require a valid photo</p>
<p style="text-align: center;">138</p> <p>1 would allow a voter to present valid photo</p> <p>2 identification from a state agency, institution, or</p> <p>3 political subdivision in order to vote; is that</p> <p>4 correct?</p> <p>5 A. That is correct.</p> <p>6 Q. And you introduced -- now starting again on</p> <p>7 Line 16 on Page 6 -- you introduced a bill into the</p> <p>8 House that would allow voters to present non-photo</p> <p>9 identification as acceptable proof of identification in</p> <p>10 order to vote; is that correct?</p> <p>11 A. Yes.</p> <p>12 Q. Getting back to the pledge, just a couple more</p> <p>13 questions about that. Did anyone ask you to sign the</p> <p>14 pledge?</p> <p>15 MR. BRISSENDEN: I'm going to instruct</p> <p>16 the witness not to disclose communications you had with</p> <p>17 your staff and with other legislators and their staff.</p> <p>18 To the extent that you can answer the question without</p> <p>19 disclosing communications that you had with those</p> <p>20 legislators or their staff members, you may answer.</p> <p>21 THE WITNESS: I don't believe anyone</p> <p>22 asked me to sign the pledge.</p> <p>23 Q. (BY MS. BERKOWER) In your view, did the bill</p> <p>24 that you introduced in the House, 3556, comply with the</p> <p>25 pledge?</p>	<p style="text-align: center;">140</p> <p>1 identification to vote.</p> <p>2 Q. Can't a voter under the bill you introduce</p> <p>3 provide nonvoter identification in order to vote?</p> <p>4 A. It does.</p> <p>5 Q. So does it require, in all circumstances, that</p> <p>6 a valid photo identification is needed to vote?</p> <p>7 A. It doesn't, but the pledge doesn't say that</p> <p>8 either.</p> <p>9 Q. What was the purpose of the bill you</p> <p>10 introduced, H.B. 3556?</p> <p>11 A. To ensure confidence and integrity in the</p> <p>12 election process in Texas.</p> <p>13 MR. BRISSENDEN: And just so the record</p> <p>14 is clear, I'm instructing the witness to limit his</p> <p>15 answer to general purpose.</p> <p>16 Q. (BY MS. BERKOWER) What happened to H.B. 3556</p> <p>17 that you introduced? Do you remember?</p> <p>18 A. I don't, but I think it didn't even get a</p> <p>19 hearing, or maybe it was heard. I actually don't know.</p> <p>20 But it didn't move through the process at any level.</p> <p>21 Q. Did you ultimately vote for S.B. 362?</p> <p>22 A. I'm certain if it -- well, yeah, I don't know.</p> <p>23 The record would reflect that. I don't recall.</p> <p>24 Q. Was there opposition to S.B. 362 in the House</p> <p>25 on the public record?</p>



<p style="text-align: center;">141</p> <p>1 A. I'm certain there was.</p> <p>2 Q. Do you remember who opposed the bill?</p> <p>3 A. Not specifically, not.</p> <p>4 Q. Do you remember the publicly provided reasons</p> <p>5 for their opposition?</p> <p>6 A. No.</p> <p>7 Q. What other bills concerning voter</p> <p>8 identification legislation do you remember from the</p> <p>9 2009 legislative session?</p> <p>10 A. I don't really recall any. There probably</p> <p>11 were others. I just don't recall.</p> <p>12 Q. Do you recall a bill introduced by</p> <p>13 Representative Smith?</p> <p>14 A. I'm going to answer accurately. I -- we may</p> <p>15 have heard of a bill by Representative Smith in -- in</p> <p>16 committee, but I don't specifically recall the bill.</p> <p>17 Q. Have you ever heard anyone in public call it a</p> <p>18 compromised bill?</p> <p>19 MR. BRISSENDEN: Again, I'm going to</p> <p>20 instruct the witness not to disclose any communications</p> <p>21 that you've had with other legislators, their staff, or</p> <p>22 your own staff. To the extent that you can answer the</p> <p>23 question without disclosing those communications you</p> <p>24 may answer.</p> <p>25 MS. BERKOWER: Well, I would take issue</p>	<p style="text-align: center;">143</p> <p>1 MS. BERKOWER: Actually, do you mind</p> <p>2 looking on with him? Do you want me to make an extra</p> <p>3 copy?</p> <p>4 MR. BRISSENDEN: No, that's fine.</p> <p>5 MS. BERKOWER: If you'd like, we can make</p> <p>6 another copy. I thought we had four.</p> <p>7 MR. BRISSENDEN: That's okay.</p> <p>8 THE WITNESS: We're fine.</p> <p>9 Q. (BY MS. BERKOWER) Do you know what this is?</p> <p>10 A. It appears to be correspondence between myself</p> <p>11 and a Ms. Kathy Rogers, Galveston County GOP.</p> <p>12 Q. Had you met Ms. Rogers before?</p> <p>13 A. Interestingly, I believe I met her on an</p> <p>14 elevator when I was stuck with her in the Capitol.</p> <p>15 Q. Oh, gosh, so you know her very well, is what</p> <p>16 you're saying?</p> <p>17 A. No, no, no. If you knew her, only an elevator</p> <p>18 ride would be considered stuck. The elevator wasn't</p> <p>19 broken.</p> <p>20 Q. Okay. And do you see at the top where the</p> <p>21 description of the correspondence was constituent at</p> <p>22 the top left corner?</p> <p>23 A. I do.</p> <p>24 Q. What does that mean when there's a designation</p> <p>25 like that on a report like this?</p>
<p style="text-align: center;">142</p> <p>1 with that objection because I asked for -- I specified</p> <p>2 public statements and if he had heard other legislators</p> <p>3 or staffers publicly call it a compromised bill. That</p> <p>4 would not be privileged.</p> <p>5 MR. BRISSENDEN: Well, that would be</p> <p>6 privileged to the extent that he had communications</p> <p>7 with those legislators or they have had communications</p> <p>8 with him that are not part of the public record.</p> <p>9 MS. BERKOWER: Okay. I'll rephrase the</p> <p>10 question, but I don't know that I understand your</p> <p>11 objection. I said have you ever heard anyone publicly</p> <p>12 call Representative Smith's bill a compromised bill.</p> <p>13 Can he answer the question?</p> <p>14 MR. BRISSENDEN: To the extent that that</p> <p>15 is part of the public record and he has information</p> <p>16 about that as part of the public record, he may.</p> <p>17 THE WITNESS: I do not recall whether</p> <p>18 publicly it was called a compromised bill or not. But</p> <p>19 if it was, I'm certain the record is there.</p> <p>20 Q. (BY MS. BERKOWER) Did you ultimately vote for</p> <p>21 Representative Smith's bill?</p> <p>22 A. I don't know.</p> <p>23 Q. I'm going to direct your attention to what we</p> <p>24 will mark as Exhibit 437 for the record.</p> <p>25 (Exhibit No. 437 marked)</p>	<p style="text-align: center;">144</p> <p>1 A. I don't actually produce these reports. I</p> <p>2 would assume that my staff would put constituent on</p> <p>3 there because it is coming from somebody who is not a</p> <p>4 part of the Capitol interest groups, lobby group,</p> <p>5 special interest group. It's coming from a citizen</p> <p>6 in -- maybe in a community in my district or a nearby</p> <p>7 district.</p> <p>8 Q. What's the date on this correspondence?</p> <p>9 A. May 18th of 2009.</p> <p>10 Q. Can you take just a minute and review the</p> <p>11 correspondence?</p> <p>12 A. Certainly. (Reading).</p> <p>13 MR. BRISSENDEN: While he's reviewing</p> <p>14 that, I want to make a statement on the record that</p> <p>15 there were documents that had been requested by</p> <p>16 Elizabeth Westfall yesterday following the court's</p> <p>17 order and she had asked for particular documents</p> <p>18 pertaining to Representative Bonnen be produced here</p> <p>19 today by noontime, and I'm told that those documents</p> <p>20 have been produced.</p> <p>21 MS. BERKOWER: Yes, I believe that's</p> <p>22 correct. And this is one of those documents.</p> <p>23 MR. BRISSENDEN: Okay.</p> <p>24 MS. BERKOWER: I'm not sure from the</p> <p>25 e-mail correspondence I saw whether or not all of them</p>



<p style="text-align: center;">145</p> <p>1 have been produced. I think there were some technical</p> <p>2 problems that might have delayed some of them. But I</p> <p>3 know at least an attempt at the production has been</p> <p>4 made.</p> <p>5 MR. BRISSENDEN: Right. I believe there</p> <p>6 was a -- some technical difficulties that made</p> <p>7 production slightly after noontime. But I believe from</p> <p>8 our office standpoint those documents that Elizabeth</p> <p>9 specifically asked for have been produced. And I</p> <p>10 believe there will be more produced that weren't a part</p> <p>11 of Elizabeth's letter. Those will be produced later</p> <p>12 today.</p> <p>13 MS. BERKOWER: Thank you for that</p> <p>14 clarification.</p> <p>15 Q. (BY MS. BERKOWER) Are you ready?</p> <p>16 A. Yes, ma'am, sure.</p> <p>17 Q. So turning to the last page first, before I</p> <p>18 forget, it says -- it looks like Ms. Rogers signed her</p> <p>19 initial correspondence to you. Do you see that?</p> <p>20 A. I don't know exactly what you mean.</p> <p>21 Q. On the last page, one more page at the top</p> <p>22 there.</p> <p>23 A. Okay. What do you mean "to me"?</p> <p>24 Q. Well, on the page -- on Page 5 it looks like</p> <p>25 her -- her initial correspondence to you is reproduced,</p>	<p style="text-align: center;">147</p> <p>1 A. I believe that's correct, yes.</p> <p>2 Q. On Page 2 you said that you requested to be a</p> <p>3 member of the House Elections Committee so that we</p> <p>4 could pass a powerful and meaningful piece of</p> <p>5 legislation. Did I read that accurately?</p> <p>6 A. You did.</p> <p>7 Q. Is that true?</p> <p>8 A. It is true that it says so that we could pass</p> <p>9 a powerful and meaningful piece of legislation and that</p> <p>10 I requested to be a member of the House Elections</p> <p>11 Committee, yes.</p> <p>12 Q. Did you request to be a member of the House</p> <p>13 Elections Committee?</p> <p>14 A. I would assume I did.</p> <p>15 Q. I just wanted to be sure because earlier I</p> <p>16 don't know that we covered that information, or at</p> <p>17 least I'm not sure you remembered if you had.</p> <p>18 A. Earlier I believe we were referencing the</p> <p>19 select committee.</p> <p>20 Q. Okay.</p> <p>21 A. And that was in the 2011 session, and we're</p> <p>22 now referring to my appointment to the elections</p> <p>23 committee in 2009.</p> <p>24 Q. So you did request to be a member of that</p> <p>25 committee?</p>
<p style="text-align: center;">146</p> <p>1 and then the end of it spills on to Page 6 and she</p> <p>2 signs her name, Kathy Rogers. Do you see that?</p> <p>3 A. Yes, I do.</p> <p>4 Q. And then she signed underneath that Jenai's</p> <p>5 friend's mom?</p> <p>6 A. Correct.</p> <p>7 Q. Who is Jenai?</p> <p>8 A. Jenai is my niece.</p> <p>9 Q. Have you received other requests or</p> <p>10 communications from Jenai or another constituent that</p> <p>11 indicated you'd be getting communication is from</p> <p>12 Ms. Rogers?</p> <p>13 A. No. Jenai is my niece who is a young -- she's</p> <p>14 now I think a sophomore or junior in high school. At</p> <p>15 the time she would have been in middle school or a</p> <p>16 freshman. And I think Kathy Rogers was providing --</p> <p>17 trying to provide context and significance to her</p> <p>18 correspondence by presenting and knowing of my family.</p> <p>19 Q. When she said Jenai's friend's mom, did you</p> <p>20 know who --</p> <p>21 A. Well, I know who Jenai is, absolutely.</p> <p>22 Q. Okay. On Page 2 of this letter -- well, okay.</p> <p>23 So it looks like this document reproduces her letter to</p> <p>24 you and then most of the document is your letter back</p> <p>25 to her. Would you agree with that characterization?</p>	<p style="text-align: center;">148</p> <p>1 A. Yes. And for clarity, the elections committee</p> <p>2 is a standing committee that members are able to</p> <p>3 request, whereas the select committee is exactly that,</p> <p>4 and it's not a committee that members would have been</p> <p>5 aware of that it was going to exist and therefore</p> <p>6 request it.</p> <p>7 Q. In the previous paragraph you say that you</p> <p>8 voted against -- well, I guess maybe we should back up</p> <p>9 earlier.</p> <p>10 A. Okay.</p> <p>11 Q. Do you know which -- what Ms. Rogers' concern</p> <p>12 was in writing to you?</p> <p>13 A. Well, she says, "I've been tasked by the</p> <p>14 Galveston County GOP to find out why you voted against</p> <p>15 the voter ID bill. They don't want to hear that you</p> <p>16 didn't think it was strong enough because" -- in</p> <p>17 quotes -- "that is always sorted out in the House</p> <p>18 Senate Committee. I hope you'll support it when it</p> <p>19 comes to the floor. Thanks in advance for any</p> <p>20 nonautomated reply" (as read), and then there's a "J."</p> <p>21 Q. And then I think it looks like above her</p> <p>22 e-mail to you on the left-hand it says "881 R.S. 362."</p> <p>23 Can you explain what that means?</p> <p>24 A. I assume, because I don't really deal with</p> <p>25 this system; my staff does -- I assume it would mean</p>



<p style="text-align: center;">149</p> <p>1 that it was -- it is -- it is indicating that this</p> <p>2 individual is for a bill in the 81st regular session,</p> <p>3 that is Senate Bill 362.</p> <p>4 Q. Okay. So do you think we can conclude that</p> <p>5 the bill Ms. Rogers is referring to you that voted</p> <p>6 against is S.B. 362?</p> <p>7 A. Yes, but for clarity, I believe it would be</p> <p>8 362 as carried in the House by Representative Smith.</p> <p>9 Q. Okay. Thank you for that clarification. So</p> <p>10 turning now to Page 2 -- turning now to Page 2, the</p> <p>11 first full paragraph, the last line.</p> <p>12 A. Uh-huh.</p> <p>13 Q. I'm sorry. Sorry. The second full paragraph,</p> <p>14 the last sentence, you said that you "Voted against the</p> <p>15 bill to send a strong message to Chairman Smith and to</p> <p>16 all Texans that his bill is completely unacceptable and</p> <p>17 it is an outright insult to citizens who have demanded</p> <p>18 effective voter ID legislation" (as read).</p> <p>19 Did I read that accurately?</p> <p>20 A. "I voted against the bill to send a strong</p> <p>21 message to Chairman Smith and to all Texans that this</p> <p>22 bill is completely in acceptable and is outright insult</p> <p>23 to citizens who have demanded effective voter ID</p> <p>24 legislation" (as read), that is correct.</p> <p>25 Q. Doesn't S.B. 362 contain many of the same</p>	<p style="text-align: center;">151</p> <p>1 minute to confer with counsel?</p> <p>2 A. Absolutely.</p> <p>3 (Conferring.)</p> <p>4 Q. (BY MS. BERKOWER) So now that we've talked</p> <p>5 about this correspondence with Ms. Rogers, I think -- I</p> <p>6 think maybe you said earlier you didn't remember if you</p> <p>7 had voted for Representative Smith's bill. Does this</p> <p>8 refresh your recollection?</p> <p>9 A. It refreshes the recollection that I voted</p> <p>10 against it in the committee.</p> <p>11 Q. Did you vote for it on the floor?</p> <p>12 A. I don't remember. I think I did, but I'm not</p> <p>13 certain of that. The record would show us that.</p> <p>14 Q. What ultimately happened to S.B. 362 in the</p> <p>15 House? Do you remember?</p> <p>16 A. I don't.</p> <p>17 Q. Do you remember there being interim charge to</p> <p>18 the committee on elections after the 2009 session?</p> <p>19 A. There are always interim charges given to</p> <p>20 committees after sessions, so I'm certain there were.</p> <p>21 I don't know specifically what those charges were.</p> <p>22 Q. Do you remember being involved with a report</p> <p>23 prepared pursuant to an interim session charge?</p> <p>24 A. I wasn't -- I'm sure I signed a report. I</p> <p>25 don't know if I did or not. I'm sure there was a</p>
<p style="text-align: center;">150</p> <p>1 identification requirements that you included in House</p> <p>2 Bill 3556?</p> <p>3 MR. BRISSENDEN: I instruct the witness</p> <p>4 not to disclose his thoughts, impressions, and analysis</p> <p>5 of the legislation and instruct him not answer.</p> <p>6 Q. (BY MS. BERKOWER) Okay. Well, then let's</p> <p>7 turn back to House Bill 3556 and also Senate Bill 362.</p> <p>8 Please turn to Page 5 in both documents.</p> <p>9 A. Which exhibits are you referring to?</p> <p>10 Q. I'm sorry. That's Exhibit 434.</p> <p>11 A. 436.</p> <p>12 Q. So turning to Page 5 --</p> <p>13 A. What version of the bill is this?</p> <p>14 Q. Of that bill, I believe it's as filed.</p> <p>15 MR. BRISSENDEN: We're referring to</p> <p>16 Exhibit 434 for the record.</p> <p>17 THE WITNESS: Right. So the issue I</p> <p>18 would have concern with here is that you're asking me</p> <p>19 to compare a bill as filed in trying to create context</p> <p>20 in the bill I voted against coming out of committee,</p> <p>21 which is not this bill.</p> <p>22 Q. (BY MS. BERKOWER) Okay.</p> <p>23 A. It was changed in the House.</p> <p>24 Q. Okay. In that case we'll come back to this</p> <p>25 later and leave it alone for now. Can I just take a</p>	<p style="text-align: center;">152</p> <p>1 report written. I didn't write the report, though.</p> <p>2 Q. Do you remember if the charge asked the</p> <p>3 committee to investigate the prevalence of voter fraud</p> <p>4 in Texas?</p> <p>5 A. There would be a record of whether it said</p> <p>6 that or not. I -- I personally don't recall.</p> <p>7 Q. I'm going to show you what I'm going to mark</p> <p>8 as Exhibit 438.</p> <p>9 MS. BERKOWER: Is that what we're up to?</p> <p>10 438.</p> <p>11 (Exhibit No. 438 marked)</p> <p>12 Q. (BY MS. BERKOWER) This one, the cover stages</p> <p>13 didn't get stapled on to it, but I will represent to</p> <p>14 you that this is an excerpt of --</p> <p>15 A. Certainly, charges. Fair enough.</p> <p>16 Q. And I don't have the cover pages. Does this</p> <p>17 help refresh your recollection about the interim</p> <p>18 charge?</p> <p>19 A. Well, it is a copy of the report filed --</p> <p>20 House Committee Elections report filed January 2011,</p> <p>21 interim report.</p> <p>22 Q. Were you involved with the preparation of that</p> <p>23 report?</p> <p>24 A. Very insignificantly.</p> <p>25 Q. What was your role with regard to the</p>



<p style="text-align: center;">153</p> <p>1 preparation of that report?</p> <p>2 A. I don't remember if we had a hearing that I</p> <p>3 may have attended. But beyond that, I wouldn't have</p> <p>4 had any more involvement.</p> <p>5 Q. To be clear, do you remember if there was a</p> <p>6 hearing?</p> <p>7 A. I don't.</p> <p>8 Q. Do you remember --</p> <p>9 A. Well, let me -- let me state it more</p> <p>10 accurately. I'm sure there was probably a hearing. I</p> <p>11 don't recall whether I attended a hearing or not.</p> <p>12 There would be a record. There might have been more</p> <p>13 than one hearing for that matter.</p> <p>14 Q. You don't remember any of the hearings,</p> <p>15 though?</p> <p>16 A. I don't recall whether -- and I'm talking</p> <p>17 about in the interim.</p> <p>18 Q. Yes.</p> <p>19 A. Yeah. I don't recall specifically whether</p> <p>20 there were hearings or not and if I was at the</p> <p>21 hearings.</p> <p>22 Q. Turning to Page 27, which is --</p> <p>23 A. I've got it.</p> <p>24 Q. This is an excerpt.</p> <p>25 A. Yes.</p>	<p style="text-align: center;">155</p> <p>1 Q. So the -- in the third paragraph of that</p> <p>2 section, the last line, does it -- it reads, "To get a</p> <p>3 complete picture of voter fraud in Texas, further</p> <p>4 analysis is needed to gather additional information</p> <p>5 from local election and law enforcement officials" (as</p> <p>6 read). Do you see that?</p> <p>7 A. Yes, ma'am.</p> <p>8 Q. Do you know of any -- if any such analysis was</p> <p>9 ever conducted pursuant to what's in the public record?</p> <p>10 MR. BRISSENDEN: And just the record --</p> <p>11 we're clear, the question is limited to what is in the</p> <p>12 public record. To the extent you can answer that</p> <p>13 question, go ahead.</p> <p>14 Q. (BY MS. BERKOWER) I can rephrase the</p> <p>15 question, actually.</p> <p>16 Do you know if there is any such analysis</p> <p>17 included in the public record?</p> <p>18 A. I know in public testimony there have been</p> <p>19 examples of -- from local election officials and law</p> <p>20 enforcement officials of concerns with voter integrity.</p> <p>21 Q. Were those presented in the public record</p> <p>22 before or after this testimony?</p> <p>23 A. My recollection is that it was presented</p> <p>24 before and after.</p> <p>25 Q. And were those -- were those public</p>
<p style="text-align: center;">154</p> <p>1 Q. The fourth full paragraph.</p> <p>2 A. Under testimony or including background?</p> <p>3 Q. Under -- under testimony.</p> <p>4 A. Okay.</p> <p>5 Q. Does that -- well, does the testimony --</p> <p>6 there's a section called "Testimony." Do you see that?</p> <p>7 A. Correct. Yes, ma'am.</p> <p>8 Q. Does it indicate that someone from the</p> <p>9 Attorney General's office came to testify before the</p> <p>10 committee?</p> <p>11 A. Well, yes, you know, it says above that the</p> <p>12 committee held a hearing on June 14th, 2010, to gather</p> <p>13 more information about issues related to voter</p> <p>14 identification to fulfill the interim charge. You are</p> <p>15 correct. It says Jay Dyer, Deputy Attorney General for</p> <p>16 government and external affairs testified. Yes.</p> <p>17 Q. Okay. And then does -- do the next couple of</p> <p>18 paragraphs summarize Mr. Dyer's testimony?</p> <p>19 A. I assume it does, but I can't say accurately</p> <p>20 whether it does or not because I don't recall his</p> <p>21 testimony. I don't even think I was at the hearing.</p> <p>22 Q. Is that the intent of these paragraphs, to</p> <p>23 summarize what he testified to?</p> <p>24 A. As I said, I assume it is. But I can't vouch</p> <p>25 for it.</p>	<p style="text-align: center;">156</p> <p>1 presentations in the form of analysis, or were they in</p> <p>2 the form of individual anecdotal accounts for case</p> <p>3 studies?</p> <p>4 A. I'm not sure what you would specifically call</p> <p>5 them. I believe there were different individuals and</p> <p>6 different election officials from different parts of</p> <p>7 the state who gave reports of concerns with voter</p> <p>8 integrity.</p> <p>9 Q. Did any of those reports conduct a broad</p> <p>10 analysis of local election enforcement on -- of</p> <p>11 election fraud enforcement on the local or county</p> <p>12 level, to your knowledge, in the public record?</p> <p>13 A. Well, I don't think the issue was about</p> <p>14 reports. It was about specific instances and concerns</p> <p>15 of voter fraud.</p> <p>16 Q. So, to -- to your knowledge, was there any</p> <p>17 comprehensive analysis that gathered additional</p> <p>18 information from local election and law enforcement</p> <p>19 many officials concerning voter fraud?</p> <p>20 MR. BRISSENDEN: Objection, vague.</p> <p>21 Objection, compound. Again, the question is limited to</p> <p>22 what's in the public record.</p> <p>23 Q. (BY MS. BERKOWER) Indeed.</p> <p>24 A. I believe that information was brought to us</p> <p>25 showing reports from certain counties or from counties</p>



<p style="text-align: center;">157</p> <p>1 who had reviewed for voter fraud and voter</p> <p>2 irregularities.</p> <p>3 Q. But, to be clear, were any of those reports a</p> <p>4 statewide analysis? And I'm limiting go this to the</p> <p>5 public record.</p> <p>6 A. No, I don't think they were statewide</p> <p>7 analysis, because they were -- they were requested from</p> <p>8 local election and law enforcement officials.</p> <p>9 Q. In the paragraph above that it describes</p> <p>10 Mr. Dyer's testimony concerning referrals and instances</p> <p>11 of alleged illegal voting. Do you see that?</p> <p>12 A. Is that the second sentence, allegations of</p> <p>13 voter fraud without being asked, or where?</p> <p>14 Q. I think it's the second paragraph about</p> <p>15 Mr. Dyer's testimony that starts, "Since 2002."</p> <p>16 A. Okay.</p> <p>17 Q. So do you see that paragraph?</p> <p>18 A. Yes, ma'am.</p> <p>19 Q. Does it -- does it say Mr. Dyer testified that</p> <p>20 the Attorney General's office received 267 referrals of</p> <p>21 incidences of alleged illegal voting since 2002?</p> <p>22 A. It does.</p> <p>23 Q. Does it also say Mr. Dyer testified that 35 of</p> <p>24 those alleged violations were resolved with guilty</p> <p>25 pleas?</p>	<p style="text-align: center;">159</p> <p>1 was it? What was the purpose of the interim charge?</p> <p>2 A. It was --</p> <p>3 MR. BRISSENDEN: I'm going to instruct</p> <p>4 the witness that you can answer the question in terms</p> <p>5 of generally speaking, what is the general purpose of</p> <p>6 an interim charge.</p> <p>7 THE WITNESS: Well, she -- I'm sorry.</p> <p>8 MR. BRISSENDEN: With regards to the</p> <p>9 purpose of this particular charge as it relates to this</p> <p>10 particular legislation. If you can answer the question</p> <p>11 without divulging your thoughts, analysis, and mental</p> <p>12 impressions with regards to this legislation, you may</p> <p>13 answer. If you can't without disclosing, then I</p> <p>14 instruct you not to answer.</p> <p>15 THE WITNESS: To the best of my knowledge</p> <p>16 interim charge No. 3, "Examine the prevalence of fraud</p> <p>17 in Texas elections, study new laws in other states</p> <p>18 regarding voter identification, and recommend statutory</p> <p>19 changes necessary to ensure that only eligible voters</p> <p>20 can vote in Texas elections" (as read).</p> <p>21 Q. (BY MS. BERKOWER) Did the report make a</p> <p>22 recommendation?</p> <p>23 A. It appears it did.</p> <p>24 Q. And was that recommendation based on the</p> <p>25 evidence that the committee reviewed?</p>
<p style="text-align: center;">158</p> <p>1 A. It does.</p> <p>2 Q. Dismissals or plea agreements, while 12 cases</p> <p>3 remain active.</p> <p>4 A. Yes, ma'am.</p> <p>5 Q. Out of the 267.</p> <p>6 A. That -- that is what it reads.</p> <p>7 MR. BRISSENDEN: For the record, it goes</p> <p>8 on to --</p> <p>9 MS. BERKOWER: Sorry. Did you want to</p> <p>10 say something?</p> <p>11 MR. BRISSENDEN: I was going to ask you</p> <p>12 to complete the sentence.</p> <p>13 Q. (BY MS. BERKOWER) I thought -- okay. 35 -- I</p> <p>14 thought I cited 12 cases remain active, and the</p> <p>15 remainder of the cases are still being investigated</p> <p>16 where the statute of limitations has expired. So it</p> <p>17 doesn't explain how many cases can -- are no longer</p> <p>18 being pursued; is that correct?</p> <p>19 A. No, it does not give a number to that. It</p> <p>20 simply says 35 were resolved with pleas of guilty,</p> <p>21 dismissals, or plea agreements. 12 cases remain</p> <p>22 active. And the rest are under current investigation</p> <p>23 or have had the statute run. So we don't know</p> <p>24 specifically the number.</p> <p>25 Q. And the purpose of this interim charge, what</p>	<p style="text-align: center;">160</p> <p>1 A. Possibly.</p> <p>2 Q. Why is it possible that it would be based</p> <p>3 on --</p> <p>4 A. They could have based it on whatever they felt</p> <p>5 necessary. I can't be certain what they -- they</p> <p>6 wrote -- someone else wrote the report. So I can't</p> <p>7 speak to what they chose to make a recommendation</p> <p>8 entirely or partially based upon.</p> <p>9 Q. Does that mean that sometimes recommendations</p> <p>10 are made to the Legislature that are not based on</p> <p>11 evidence before whatever committee is making the</p> <p>12 recommendation?</p> <p>13 MR. BRISSENDEN: Objection, calls for</p> <p>14 speculation.</p> <p>15 Q. (BY MS. BERKOWER) You may answer.</p> <p>16 MR. BRISSENDEN: I'm going to instruct</p> <p>17 the witness that to the extent you have knowledge that</p> <p>18 is based upon your personal experience with regards to</p> <p>19 specific legislative matters, I would instruct you not</p> <p>20 to answer and disclose that information. To the extent</p> <p>21 that you can answer that question as a general</p> <p>22 procedural matter, you may.</p> <p>23 THE WITNESS: I think the point of my</p> <p>24 answer is that I don't know factually what they base</p> <p>25 their recommendations on. And to your question, the</p>



<p style="text-align: center;">161</p> <p>1 Legislature does not act as a judicial body that takes</p> <p>2 evidentiary information or is required to draw</p> <p>3 conclusions.</p> <p>4 Q. (BY MS. BERKOWER) Okay. Thank you for the</p> <p>5 clarification.</p> <p>6 MS. BERKOWER: How are we doing? Do you</p> <p>7 need to take a break?</p> <p>8 MR. BRISSENDEN: Sure. Why don't we take</p> <p>9 a short break.</p> <p>10 (Recess from 3:07 p.m. to 3:27 p.m.)</p> <p>11 Q. (BY MS. BERKOWER) Do you remember if there</p> <p>12 was -- turning back to the 2009 legislative session</p> <p>13 just for a few more moments, do you remember if a bill</p> <p>14 on voter identification was voted out of the elections</p> <p>15 committee on -- into the full House that year?</p> <p>16 A. I believe there was, yes.</p> <p>17 Q. Do you remember which bill was voted out of</p> <p>18 committee?</p> <p>19 A. It was a senate bill carried by</p> <p>20 Representative Smith in the House, I believe.</p> <p>21 Q. Do you remember if that was Senate Bill 362?</p> <p>22 A. I mean, the record would show us that. I</p> <p>23 don't know specifically. It probably was. But I don't</p> <p>24 know absolutely.</p> <p>25 Q. Do you remember if the bill voted out of</p>	<p style="text-align: center;">163</p> <p>1 about why you voted against the bills?</p> <p>2 MR. BRISSENDEN: Don't disclose any</p> <p>3 thoughts, impressions, or mental analysis about</p> <p>4 conversations.</p> <p>5 Q. (BY MS. BERKOWER) I asked a yes or no</p> <p>6 question, did you communicate with constituents about</p> <p>7 the bill. I didn't ask for the content of the</p> <p>8 communications.</p> <p>9 MR. BRISSENDEN: I don't -- I believe</p> <p>10 your question was more along the lines about why he</p> <p>11 voted against the bill as opposed to just a more</p> <p>12 general question about the legislation.</p> <p>13 Q. (BY MS. BERKOWER) Okay. I'll rephrase the</p> <p>14 question.</p> <p>15 Did you communicate with any constituents</p> <p>16 about the fact that you voted against the bill?</p> <p>17 A. Well, technically speaking, Mrs. Rogers, whose</p> <p>18 correspondence we've already gone through rather</p> <p>19 thoroughly, is not my constituent. But I obviously did</p> <p>20 communicate with her. I don't know. We did a document</p> <p>21 search and provided the appropriate individuals with</p> <p>22 the information. I'm sure if I did, it's there. But I</p> <p>23 don't know -- I struggle to recall specific</p> <p>24 correspondences with constituents from three and four</p> <p>25 years ago.</p>
<p style="text-align: center;">162</p> <p>1 committee had been amended while it was in the</p> <p>2 committee?</p> <p>3 A. I'm pretty certain -- well, I don't know if it</p> <p>4 was amended, not to be difficult. I think it was -- I</p> <p>5 think a substitute of the bill was produced. And I</p> <p>6 don't know if it was amended or not. But I don't know.</p> <p>7 Q. How did you vote on Senate Bill 362?</p> <p>8 A. When?</p> <p>9 Q. When it -- sorry. When it was -- when the</p> <p>10 vote was to send it out of the committee to the full</p> <p>11 House?</p> <p>12 A. I believe I voted no.</p> <p>13 Q. No?</p> <p>14 A. I believe I voted no.</p> <p>15 Q. Do you remember if the bill that you voted no</p> <p>16 on allowed for nonphotographic identification as --</p> <p>17 A. I imagine it did, but I don't know</p> <p>18 specifically.</p> <p>19 Q. Didn't the bill that you introduced, that</p> <p>20 Session 3556, include nonphotographic identification?</p> <p>21 A. We've been over that, and it did.</p> <p>22 Q. Did you issue any public statements about why</p> <p>23 you voted against the bill?</p> <p>24 A. I may have. I don't recall.</p> <p>25 Q. Did you communicate with any constituents</p>	<p style="text-align: center;">164</p> <p>1 Q. Okay. Well, just to briefly turn your</p> <p>2 attention back to that correspondence with Ms. Rogers,</p> <p>3 I think you have it there in front of you.</p> <p>4 A. Yes.</p> <p>5 Q. What's the exhibit number on that?</p> <p>6 A. 437.</p> <p>7 Q. 437. On Page 2, in the second full paragraph.</p> <p>8 A. Uh-huh.</p> <p>9 Q. You said, "Before casting my nay vote in</p> <p>10 committee, I took a pass on voting to ensure that there</p> <p>11 were enough votes being billed to the House floor.</p> <p>12 Upon seeing that there were five votes, I voted against</p> <p>13 the bill to send a strong message to Chairman Smith and</p> <p>14 to all Texans that this bill is completely unacceptable</p> <p>15 and that it is an outright insult to citizens who have</p> <p>16 demanded effective voter ID legislation" (as read).</p> <p>17 Is that a different bill than the bill</p> <p>18 that was ultimately sent to the full House?</p> <p>19 A. I don't know. What do you mean?</p> <p>20 Q. Did you vote no on the bill that went out of</p> <p>21 committee?</p> <p>22 A. Yes, we -- we established that earlier.</p> <p>23 Q. Is that the bill you're referencing in this</p> <p>24 paragraph?</p> <p>25 A. Absolutely.</p>



<p style="text-align: center;">165</p> <p>1 Q. Do you remember what the provisions of that</p> <p>2 bill were?</p> <p>3 A. I do not.</p> <p>4 Q. Do you remember if that bill allowed for</p> <p>5 nonphotographic identification for voters?</p> <p>6 A. Specifically I don't recall, but my assumption</p> <p>7 is -- is that it did.</p> <p>8 Q. But you don't remember any of the specific</p> <p>9 provisions of that bill?</p> <p>10 A. No.</p> <p>11 Q. During the 2011 legislative session, were you</p> <p>12 staffed on any committees this addressed</p> <p>13 election-related or voter ID-related legislation?</p> <p>14 A. What?</p> <p>15 Q. During the 2011 legislative session, were you</p> <p>16 staffed on any committees that addressed</p> <p>17 election-related or voter ID-related legislation?</p> <p>18 MR. BRISSENDEN: Objection.</p> <p>19 THE WITNESS: What do you mean by</p> <p>20 "staffed"? I don't know what that means. Was I</p> <p>21 assigned to one, you mean?</p> <p>22 Q. (BY MS. BERKOWER) That's what I mean.</p> <p>23 A. Okay. I'm sorry. I didn't mean to be</p> <p>24 difficult. Yes, I was assigned to the select</p> <p>25 committee.</p>	<p style="text-align: center;">167</p> <p>1 introduce this as an exhibit. But I can give it to you</p> <p>2 to see if it refreshes your recollection.</p> <p>3 A. Sure. Yeah, it doesn't bother me.</p> <p>4 MR. BRISSENDEN: Why don't we go ahead</p> <p>5 and mark that as an exhibit.</p> <p>6 MS. BERKOWER: Okay. I'll mark that as</p> <p>7 Exhibit 440.</p> <p>8 (Exhibit No. 440 marked)</p> <p>9 Q. (BY MS. BERKOWER) Do you know what this is?</p> <p>10 A. This is the Texas Legislature on-line history</p> <p>11 for House Bill 624.</p> <p>12 Q. Does it refresh your recollection as to when</p> <p>13 you filed --</p> <p>14 A. It does. It indicates -- this record</p> <p>15 indicates that I filed the bill on January 12th of</p> <p>16 2011.</p> <p>17 Q. Do you remember if that was before or after</p> <p>18 you were assigned to be chairman of the select</p> <p>19 committee?</p> <p>20 A. It was before.</p> <p>21 Q. At the time that you introduced this bill, had</p> <p>22 you seen or heard anything about Senate Bill 14?</p> <p>23 A. I doubt it. I can't say absolutely, but I</p> <p>24 doubt that I have.</p> <p>25 Q. Had you had any communications with</p>
<p style="text-align: center;">166</p> <p>1 Q. Did you also introduce election-related --</p> <p>2 sorry -- election-related legislation that session?</p> <p>3 MR. BRISSENDEN: Objection, vague.</p> <p>4 Q. (BY MS. BERKOWER) You can answer.</p> <p>5 MR. BRISSENDEN: You can answer.</p> <p>6 THE WITNESS: In 2011?</p> <p>7 Q. (BY MS. BERKOWER) Yes.</p> <p>8 A. I believe I did.</p> <p>9 Q. Do you remember which bill that was?</p> <p>10 A. No, I don't.</p> <p>11 (Exhibit No. 439 marked)</p> <p>12 Q. (BY MS. BERKOWER) I have Exhibit 439 here.</p> <p>13 Do you recognize this?</p> <p>14 A. It's House Bill No. 624 filed by Bonnen, which</p> <p>15 is myself.</p> <p>16 Q. What did this bill do?</p> <p>17 A. It would have ensured the integrity and</p> <p>18 confidence in elections in the State of Texas.</p> <p>19 Q. What were the bill's terms?</p> <p>20 A. Its terms.</p> <p>21 Q. Well, let me back up a second. Do you</p> <p>22 remember when you introduced this bill?</p> <p>23 A. I do not. With it being the number of 624, I</p> <p>24 imagine it was probably earlier in the process.</p> <p>25 Q. I don't know if I necessarily need to</p>	<p style="text-align: center;">168</p> <p>1 Senator Frazier in the fall of 2010?</p> <p>2 A. I don't think I had any, but I wouldn't want</p> <p>3 to lie and say I hadn't. I doubt I did. I mean, I</p> <p>4 don't --</p> <p>5 Q. You can't remember any?</p> <p>6 A. No. We don't communicate a lot.</p> <p>7 Q. Just as a general matter, if you are working</p> <p>8 on a piece of legislation and you know there's</p> <p>9 something similar being drafted in the Senate, do you</p> <p>10 try to communicate with the senators who are working on</p> <p>11 that legislation?</p> <p>12 A. As a general matter, it really just depends.</p> <p>13 Sometimes you might, sometimes you might not.</p> <p>14 Candidly, sometimes there's some competition to try to</p> <p>15 be the lead author, be it a House bill versus a Senate</p> <p>16 bill. So it really truly varies as to whether there</p> <p>17 would be any real communication or positive working in</p> <p>18 that regard. So there's no -- there was no patent</p> <p>19 scenario there.</p> <p>20 Q. Do you recall any communications with members</p> <p>21 of Senator Frazier's staff in the fall of 2010?</p> <p>22 A. I do not recall any.</p> <p>23 Q. What was the purpose of House Bill 624?</p> <p>24 MR. BRISSENDEN: I'm instructing the</p> <p>25 witness that -- to answer the question in terms of the</p>





<p style="text-align: center;">169</p> <p>1 general purpose of the legislation and not to disclose</p> <p>2 mental impressions, analysis, and opinions about the</p> <p>3 legislation.</p> <p>4 THE WITNESS: General purpose was to</p> <p>5 ensure integrity and confidence in the election process</p> <p>6 in Texas.</p> <p>7 Q. (BY MS. BERKOWER) Turning your attention to</p> <p>8 Page 5, do you see the Section 63.0101, document of</p> <p>9 proof of identification?</p> <p>10 A. Yes, ma'am.</p> <p>11 Q. And under Item 1 --</p> <p>12 A. Yes.</p> <p>13 Q. -- do you see that it permits a driver's</p> <p>14 license or personal identification card issued to the</p> <p>15 person by the Department of Public Safety that is not</p> <p>16 expired or that has expired no earlier than one year</p> <p>17 before the date of presentation?</p> <p>18 A. Correct.</p> <p>19 Q. Turning to the next page, Item 6 on Page 6 at</p> <p>20 Line 10.</p> <p>21 A. Yes, ma'am.</p> <p>22 Q. Do you see that this bill would permit a voter</p> <p>23 to use a student identification card from a public or</p> <p>24 private institution of higher education that contains</p> <p>25 the person's photograph?</p>	<p style="text-align: center;">171</p> <p>1 (Discussion off the record.)</p> <p>2 THE WITNESS: The bill is not the same.</p> <p>3 I forget -- I apologize. What was the question about</p> <p>4 the two?</p> <p>5 Q. (BY MS. BERKOWER) Is the House Bill 624 that</p> <p>6 you introduced during the 2011 Legislature different</p> <p>7 from the House Bill 556, which you introduced in the</p> <p>8 2009 Legislature?</p> <p>9 A. It is different.</p> <p>10 Q. How is it different? And I'm asking with</p> <p>11 regard to the types of identification voters may use to</p> <p>12 vote at the polls.</p> <p>13 A. Well, House Bill 3556 says a driver's license</p> <p>14 or personal identification card issued to the person by</p> <p>15 the Department of Public Safety that is not expired or</p> <p>16 that expired no earlier than two years before the date</p> <p>17 of presentation; and House Bill 624 says a driver's</p> <p>18 license or personal identification card issued to the</p> <p>19 person by the Department of Public Safety that is not</p> <p>20 expired or that expired no later than one year before</p> <p>21 the date of presentation. And then --</p> <p>22 Q. Okay. Does --</p> <p>23 A. Yes, ma'am.</p> <p>24 Q. Sorry. Maybe to make this go a little faster</p> <p>25 I'll just ask you some questions about -- about some of</p>
<p style="text-align: center;">170</p> <p>1 A. I do see that.</p> <p>2 Q. And it looks like that is not limited to</p> <p>3 institutions in the State of Texas; is that correct?</p> <p>4 A. It says, "Student identification card issued</p> <p>5 by a public or private institution of higher education</p> <p>6 that contains the person's photograph," yes.</p> <p>7 Q. So it doesn't have to be in Texas?</p> <p>8 A. It does not appear to have limiting language,</p> <p>9 no.</p> <p>10 Q. Then the next section, Section 17 that starts</p> <p>11 at Line 14, it permits a voter to use a valid</p> <p>12 identification card that contains a person's photograph</p> <p>13 and is issued by either an agency or institution of the</p> <p>14 Federal Government, an agency, institution, or</p> <p>15 political subdivision of this state, or a tribal</p> <p>16 organization. Do you see that?</p> <p>17 A. I do.</p> <p>18 Q. Is this bill different from the bill you</p> <p>19 introduced in the previous Legislature with regard to</p> <p>20 the types of identifications that are permitted for</p> <p>21 voters to use at the polls?</p> <p>22 MR. BRISSENDEN: Just so we're clear and</p> <p>23 the record is clear, which bill are you referring to?</p> <p>24 MS. BERKOWER: 3556.</p> <p>25 MR. BRISSENDEN: Exhibit 436?</p>	<p style="text-align: center;">172</p> <p>1 the terms.</p> <p>2 A. Yes, ma'am.</p> <p>3 Q. Does House Bill 3556 permit a voter to show a</p> <p>4 valid employee identification card -- a photo</p> <p>5 identification card issued by an employee -- an</p> <p>6 employer? That's on Page 5 at Line 23.</p> <p>7 MR. BRISSENDEN: Objection, asked and</p> <p>8 answered.</p> <p>9 THE WITNESS: I believe it does.</p> <p>10 Q. (BY MS. BERKOWER) Does House Bill 624 allow</p> <p>11 that type of identification to be used?</p> <p>12 A. Not that specific type, no.</p> <p>13 Q. Is there any evidence in the public record</p> <p>14 that indicated that employee identification cards</p> <p>15 should be -- should not be permitted to be used for</p> <p>16 voters at the polls?</p> <p>17 A. I believe that was discussed at times during</p> <p>18 hearings and on the floor.</p> <p>19 Q. Was it discussed in the time between when you</p> <p>20 introduced 3556 and 624?</p> <p>21 MR. BRISSENDEN: Again, you're limiting</p> <p>22 your question to what's in the public record?</p> <p>23 MS. BERKOWER: Yes.</p> <p>24 THE WITNESS: I don't recall when</p> <p>25 something like that was discussed or not discussed.</p>



<p style="text-align: center;">173</p> <p>1 Q. (BY MS. BERKOWER) And with regard to -- you</p> <p>2 initially said that 3556 permitted a license -- a</p> <p>3 Department of Public Safety identification card or</p> <p>4 driver's license that expired within two years, and 624</p> <p>5 limits that to one year?</p> <p>6 A. That's correct.</p> <p>7 Q. Was there any evidence in the public record in</p> <p>8 the time between which you -- between when you</p> <p>9 introduced 3556 and 624 that supported a shorter period</p> <p>10 of time?</p> <p>11 A. I don't know whether there was or not.</p> <p>12 Q. Does H.B. 624 allow a tribal identification to</p> <p>13 be used?</p> <p>14 A. It does.</p> <p>15 Q. Does 3556 allow a tribal identification to be</p> <p>16 used?</p> <p>17 A. I don't believe that it includes that.</p> <p>18 Q. Is there any evidence in the public record</p> <p>19 that supported adding tribal identifications in the</p> <p>20 time between when you introduced 3556 and 624?</p> <p>21 A. I don't recall.</p> <p>22 Q. After -- turning your attention now just to</p> <p>23 House Bill 624.</p> <p>24 A. Okay.</p> <p>25 Q. Do you know of any analysis available in the</p>	<p style="text-align: center;">175</p> <p>1 bill contains different provisions and what the purpose</p> <p>2 of those provisions are, it's my understanding that</p> <p>3 those are privileged.</p> <p>4 Q. (BY MS. BERKOWER) Do you think that -- just</p> <p>5 as a general matter, why is an expired</p> <p>6 identification -- why won't an expired identification</p> <p>7 verify a person's identity?</p> <p>8 MR. BRISSENDEN: Because the question</p> <p>9 pertains to specific provisions of legislation,</p> <p>10 including S.B. 14, and you are now asking the witness</p> <p>11 about questions regarding mental impressions and asking</p> <p>12 why particular provisions were included, I'm going to</p> <p>13 instruct the witness not to answer.</p> <p>14 MS. BERKOWER: I think this falls into</p> <p>15 the category of things that we believe are basic</p> <p>16 background general information that don't necessarily</p> <p>17 relate directly to a legislative act or to his mental</p> <p>18 impressions or any deliberations that he participated</p> <p>19 in as a legislator, and as a consequence -- also,</p> <p>20 notwithstanding the fact that that question has been</p> <p>21 answered in many, many depositions in this case without</p> <p>22 an objection, we believe that that's not actually</p> <p>23 seeking to uncover privileged information. We ask that</p> <p>24 the state withdraws its objection.</p> <p>25 MR. BRISSENDEN: And I disagree with the</p>
<p style="text-align: center;">174</p> <p>1 public record relating to who among registered voters</p> <p>2 possess the forms of identification specified in the</p> <p>3 bill?</p> <p>4 A. Well, considering the bill never received a</p> <p>5 hearing, it was not even referred to the committee that</p> <p>6 I was chairing as a select committee, I don't think</p> <p>7 that kind of analysis was ever required in the bill.</p> <p>8 Q. Do you know why it wasn't referred to the</p> <p>9 select committee?</p> <p>10 A. I don't make those decisions.</p> <p>11 Q. What was the purpose of including a driver's</p> <p>12 license, a personal ID that expired within one year of</p> <p>13 presentation?</p> <p>14 MR. BRISSENDEN: Let me assert an</p> <p>15 objection as to privilege. I'm going to instruct the</p> <p>16 witness not to answer the question.</p> <p>17 THE WITNESS: I agree with privilege.</p> <p>18 MS. BERKOWER: I think our position is</p> <p>19 we're allowed to question on general legislative</p> <p>20 purpose.</p> <p>21 MR. BRISSENDEN: As I understand from the</p> <p>22 court's orders from yesterday and back in May, the</p> <p>23 court is allowing questions with regard to general</p> <p>24 purpose of a particular piece of legislation in</p> <p>25 general, but in terms of asking questions as to why the</p>	<p style="text-align: center;">176</p> <p>1 analysis because I believe that the question is</p> <p>2 requiring the witness to disclose his thoughts,</p> <p>3 opinions, mental impressions, and analysis about</p> <p>4 provisions of legislation that is directly related to</p> <p>5 provisions of different voter ID bills, including</p> <p>6 S.B. 14.</p> <p>7 Obviously the question is being asked</p> <p>8 because it does relate and has relevance to provisions</p> <p>9 of voter-ID bills, including S.B. 14, and I would</p> <p>10 instruct the witness not to answer.</p> <p>11 Q. (BY MS. BERKOWER) How many years is a Texas</p> <p>12 driver's license valid for?</p> <p>13 A. I don't know.</p> <p>14 Q. How -- when was the last time did you renewed</p> <p>15 your own driver's license?</p> <p>16 A. I do not know. I'm certain it was shortly</p> <p>17 after it expired or just before.</p> <p>18 Q. Do you remember --</p> <p>19 A. Which you can do on-line now, I believe.</p> <p>20 Q. That was my next question. Do you remember if</p> <p>21 you renewed it on-line?</p> <p>22 A. I don't believe I did, but I don't know for</p> <p>23 certainty.</p> <p>24 Q. If you renewed it on-line, would you have to</p> <p>25 take a new photograph?</p>



<p style="text-align: center;">177</p> <p>1 A. I don't know absolutely, but I think that's</p> <p>2 one of the positive natures of an on-line renewal is</p> <p>3 that you do not take a new photograph.</p> <p>4 Q. Do you have an estimate of -- so you said you</p> <p>5 don't know how long a driver's license is valid for; is</p> <p>6 that accurate?</p> <p>7 A. Yeah. I don't want to be incorrect. I think</p> <p>8 it's six years, but I'm not certain of that.</p> <p>9 Q. So more than a year?</p> <p>10 A. That's correct.</p> <p>11 Q. Probably -- maybe more than five years?</p> <p>12 A. Maybe, but I don't know. I mean, it's not</p> <p>13 something that's debated or unknown. I mean, we could</p> <p>14 find that out.</p> <p>15 Q. If you don't have to take a new photograph</p> <p>16 when you renew, does that mean that you could have the</p> <p>17 same photograph for up to maybe 12 years?</p> <p>18 A. I don't know what the facts are, but I imagine</p> <p>19 that could be the case. But I don't know.</p> <p>20 Q. Well, assume that it's six years. You know</p> <p>21 you can renew on-line.</p> <p>22 A. Uh-huh.</p> <p>23 Q. If it is, in fact, six years, does that mean</p> <p>24 you would have a 12-year period with the same</p> <p>25 photograph.</p>	<p style="text-align: center;">179</p> <p>1 THE WITNESS: Possible.</p> <p>2 Q. (BY MS. BERKOWER) Do you look the same way</p> <p>3 you looked 12 years ago?</p> <p>4 A. Let me think about that. I don't remember</p> <p>5 when I started shaving my head. So if I did 12 years</p> <p>6 ago, which I very well could have, I would look pretty</p> <p>7 much the same.</p> <p>8 Q. Do you know other people who no longer look</p> <p>9 the same way they looked 12 years ago?</p> <p>10 A. There are some.</p> <p>11 Q. If you don't look like the photo on your photo</p> <p>12 ID, how does that verify your identity?</p> <p>13 MR. BRISSENDEN: Objection, calls for</p> <p>14 speculation, assumes facts not in evidence.</p> <p>15 Q. (BY MS. BERKOWER) You can answer that.</p> <p>16 MR. BRISSENDEN: If you can.</p> <p>17 THE WITNESS: Repeat the question.</p> <p>18 MS. BERKOWER: Can you read it back,</p> <p>19 please?</p> <p>20 (The requested portion was read)</p> <p>21 MR. BRISSENDEN: Same objection.</p> <p>22 Q. (BY MS. BERKOWER) You may answer.</p> <p>23 A. I choose not to.</p> <p>24 Q. That's not an option.</p> <p>25 A. Okay. I'll explain it to you. How it works</p>
<p style="text-align: center;">178</p> <p>1 MR. BRISSENDEN: Objection, asked and</p> <p>2 answered.</p> <p>3 THE WITNESS: Assuming those facts are</p> <p>4 accurate, that certainly could happen.</p> <p>5 Q. (BY MS. BERKOWER) Do you know how long a US</p> <p>6 passport is valid for?</p> <p>7 A. I have no idea. I think it's ten years, but I</p> <p>8 don't really know. Isn't it ten years?</p> <p>9 Q. Do you know how long a citizenship certificate</p> <p>10 is valid for?</p> <p>11 A. I have no idea.</p> <p>12 Q. Do you know how long a naturalization</p> <p>13 certificate is valid for?</p> <p>14 A. No.</p> <p>15 Q. Is it possible that someone who possesses a</p> <p>16 valid photo identification might no longer look like</p> <p>17 the photograph?</p> <p>18 MR. BRISSENDEN: Objection, calls for</p> <p>19 speculation.</p> <p>20 Q. (BY MS. BERKOWER) You can answer that.</p> <p>21 A. I think it's speculative.</p> <p>22 Q. Okay. But is it possible that someone could</p> <p>23 have a photo ID and they know longer look like the</p> <p>24 photograph?</p> <p>25 MR. BRISSENDEN: Same objection.</p>	<p style="text-align: center;">180</p> <p>1 is if I have a valid Texas driver's license and my</p> <p>2 photo does not look the same as maybe I presently do,</p> <p>3 there are statistics and data verified by our</p> <p>4 government that will line-up with the statistics and</p> <p>5 data in the voter registration. And that is how you</p> <p>6 verify. It's not purely and simply in relation to the</p> <p>7 photo.</p> <p>8 Q. What statistics are you referring to?</p> <p>9 A. Someone's address, someone's height, weight,</p> <p>10 Q. What if they moved or gained weight or lost</p> <p>11 weight?</p> <p>12 A. Well, those are separate issues. If they</p> <p>13 moved, you're supposed to renew your license with that</p> <p>14 new address on it.</p> <p>15 Q. And what if they gained or lost a significant</p> <p>16 amount of weight?</p> <p>17 MR. BRISSENDEN: Objection, calls for</p> <p>18 speculation. To the extent you're able to answer the</p> <p>19 question, go ahead.</p> <p>20 THE WITNESS: That's not necessarily a</p> <p>21 factor that's being used to decide that you are the</p> <p>22 person you say are when you're going in to cast a</p> <p>23 ballot.</p> <p>24 Q. (BY MS. BERKOWER) Doesn't the photo, though,</p> <p>25 factor into whether or not the -- the ID card verifies</p>



<p style="text-align: center;">181</p> <p>1 your identity?</p> <p>2 MR. BRISSSENDEN: Objection, calls for</p> <p>3 speculation.</p> <p>4 THE WITNESS: Yeah.</p> <p>5 Q. (BY MS. BERKOWER) You may answer.</p> <p>6 A. I think it's speculative.</p> <p>7 MS. BERKOWER: Okay. That answer is</p> <p>8 nonresponsive. I would ask the witness to provide a</p> <p>9 responsive answer.</p> <p>10 THE WITNESS: Repeat the question.</p> <p>11 MR. BRISSSENDEN: Objection, asked and</p> <p>12 answered. Objection, calls for speculation. Let's</p> <p>13 move on.</p> <p>14 MS. BERKOWER: You're telling me to move</p> <p>15 on?</p> <p>16 MR. BRISSSENDEN: He's tried to answer</p> <p>17 your question the best he can given the speculative</p> <p>18 nature of the question.</p> <p>19 Q. (BY MS. BERKOWER) Have you ever seen a</p> <p>20 naturalization certificate?</p> <p>21 A. I don't know if I have or not.</p> <p>22 Q. Have you ever known of a person who</p> <p>23 naturalized -- became a naturalized US citizen at a</p> <p>24 very young age, say, an adopted child?</p> <p>25 A. I -- I don't know about the "very young age"</p>	<p style="text-align: center;">183</p> <p>1 Q. Do you know how often the photographs are</p> <p>2 taken for tribal identifications?</p> <p>3 A. I have no idea.</p> <p>4 Q. Do you remember a bill being filed in the</p> <p>5 House in 2011 called S.B. 14?</p> <p>6 A. Well, not to be difficult in any way, but it</p> <p>7 wouldn't have been filed in the House if it was an S.B.</p> <p>8 Q. Sorry. Do you remember a bill -- well, what</p> <p>9 would it be?</p> <p>10 A. Well, it would have been -- it would have been</p> <p>11 a Senate bill, it would have come over to the House</p> <p>12 after having passed the Senate.</p> <p>13 Q. Do you remember a Senate bill coming over to</p> <p>14 the House after having passed the Senate that's called</p> <p>15 S.B. 14?</p> <p>16 A. I do.</p> <p>17 (Exhibit No. 441 marked)</p> <p>18 Q. (BY MS. BERKOWER) I have what's marked as</p> <p>19 Exhibit 441.</p> <p>20 A. Thank you.</p> <p>21 Q. Do you recognize this?</p> <p>22 A. Vaguely, yes.</p> <p>23 Q. What is it?</p> <p>24 A. It is Senate Bill No. 14 filed by</p> <p>25 Senator Frazier and others.</p>
<p style="text-align: center;">182</p> <p>1 part.</p> <p>2 Q. Do you know anyone who has become a US citizen</p> <p>3 as a child?</p> <p>4 A. I believe so.</p> <p>5 Q. Do you know if that person has ever had to</p> <p>6 retake the photograph on their naturalization</p> <p>7 certificate?</p> <p>8 A. I do not know.</p> <p>9 Q. If they didn't have to take -- retake the</p> <p>10 photograph on their naturalization certificate, would</p> <p>11 that photograph look the same when they were</p> <p>12 naturalized versus some decades later?</p> <p>13 MR. BRISSSENDEN: Objection, calls for</p> <p>14 speculation. He's already answered that he does not</p> <p>15 know. Now you've gone one step further and asked him a</p> <p>16 follow-up question on what he already does not know.</p> <p>17 So I would instruct him --</p> <p>18 THE WITNESS: I don't know.</p> <p>19 Q. (BY MS. BERKOWER) Have you ever seen a tribal</p> <p>20 identification?</p> <p>21 A. I do believe I have, yes, I think so.</p> <p>22 Q. What does it look like?</p> <p>23 A. I think they vary depending on the tribe.</p> <p>24 Q. Which one have you seen, if you remember?</p> <p>25 A. I don't.</p>	<p style="text-align: center;">184</p> <p>1 Q. Turning to page -- hold on a second. Turning</p> <p>2 to Page 3, Section 7, do you see that that section</p> <p>3 explains who must provide photographic identification</p> <p>4 at the polls?</p> <p>5 A. I think it's saying who they provide it to.</p> <p>6 Q. Okay.</p> <p>7 A. And then I guess it goes on and lists.</p> <p>8 Q. Do you see Line 14 on Page 4, Section G?</p> <p>9 A. I do.</p> <p>10 Q. And it says that the requirement for</p> <p>11 identification prescribed by Subsection B, it's</p> <p>12 referring to Section B above that, are not met, the</p> <p>13 voter may be accepted for provisional voting?</p> <p>14 A. Yes.</p> <p>15 MR. BRISSSENDEN: Just so the record is</p> <p>16 clear, not to be difficult, Exhibit 441 is a version of</p> <p>17 S.B. 14 that has lines through it and edits. Do you</p> <p>18 have -- I think there has been an exhibit that he used</p> <p>19 before that's been signed.</p> <p>20 MS. BERKOWER: This is S.B. 14 as filed,</p> <p>21 and we have specific questions about the bill as filed,</p> <p>22 which is why we introduced that as an exhibit at this</p> <p>23 time.</p> <p>24 MR. BRISSSENDEN: Very good.</p> <p>25 Q. (BY MS. BERKOWER) Turning to Page 5 of the</p>



<p style="text-align: center;">185</p> <p>1 bill, Part H at Line 4.</p> <p>2 A. Part H, Line 4, yes.</p> <p>3 Q. It says, "Requirements for identification</p> <p>4 described by Subsection B do not apply to a voter, one,</p> <p>5 who presents the voter registration certificate on</p> <p>6 offering to vote; and, two, 70 years of age or older on</p> <p>7 January 1st, 2012, as indicated by the date of birth on</p> <p>8 the voter registration certificate" (as read).</p> <p>9 Did I read that correctly?</p> <p>10 A. I believe you did.</p> <p>11 Q. Does that section mean that someone who is</p> <p>12 over age 70 and presents a voter registration card does</p> <p>13 not have to comply with the bill's identification</p> <p>14 requirements?</p> <p>15 MR. BRISSSENDEN: I'm going to instruct</p> <p>16 you to the extent that you know the answer to that</p> <p>17 question based upon public record, based upon your</p> <p>18 review of the Exhibit 441, as you sit here today, you</p> <p>19 may answer to the extent that it requires you to</p> <p>20 disclose your mental impressions, thoughts, analysis,</p> <p>21 and impressions as to S.B. 14, and I instruct you not</p> <p>22 to answer.</p> <p>23 THE WITNESS: I'll follow his</p> <p>24 instruction.</p> <p>25 Q. (BY MS. BERKOWER) Well, I think he said -- to</p>	<p style="text-align: center;">187</p> <p>1 A. It says, "The following documentation is an</p> <p>2 acceptable form of photo identification under this</p> <p>3 chapter," and then it lists several.</p> <p>4 Q. Does it list only four types of photo</p> <p>5 identification that may be presented?</p> <p>6 A. It appears to -- well, yes, it appears to have</p> <p>7 four types, correct.</p> <p>8 Q. And one of those is a driver's license or</p> <p>9 personal identification card issued by DPS that has not</p> <p>10 expired. Is that accurate?</p> <p>11 A. That is accurate.</p> <p>12 Q. Another is United States military</p> <p>13 identification card that contains a person's photograph</p> <p>14 that has not expired. Is that accurate?</p> <p>15 A. It is.</p> <p>16 Q. The third is United States citizenship</p> <p>17 certificate that contains a photograph. Is that</p> <p>18 accurate?</p> <p>19 A. Yes.</p> <p>20 Q. Or a US passport that has not expired. Is</p> <p>21 that accurate?</p> <p>22 A. It is.</p> <p>23 Q. Is this bill different from -- are the</p> <p>24 requirements for photo ID in this bill different from</p> <p>25 that in S.B. 362 from the 2009 Legislature?</p>
<p style="text-align: center;">186</p> <p>1 be clear -- to be clear, just so I understand, does</p> <p>2 that mean that you cannot answer this question based</p> <p>3 solely on reading the language of the bill today?</p> <p>4 A. Well, I agreed with you on what the language</p> <p>5 said.</p> <p>6 Q. But the question I asked was, does this mean</p> <p>7 that a person who is 70 years of age or more who</p> <p>8 presents a voter registration certificate does not have</p> <p>9 to meet the other identification requirements, and you</p> <p>10 invoked legislative privilege. Is that accurate?</p> <p>11 A. That would be accurate.</p> <p>12 Q. So his instruction, though, said you should</p> <p>13 answer the question or you may answer the question if</p> <p>14 you could answer it based just on what's here in the</p> <p>15 document.</p> <p>16 A. I've already agreed with you on what the</p> <p>17 document says. I'm not arguing with you about what the</p> <p>18 document says.</p> <p>19 Q. Okay. Turning to Page 8, Section 63.0101,</p> <p>20 what does this section do?</p> <p>21 A. Documentation of proof of identification.</p> <p>22 Q. And does this section list the types of</p> <p>23 identifications that are acceptable photo</p> <p>24 identifications that a voter may present in order to</p> <p>25 vote at the polls?</p>	<p style="text-align: center;">188</p> <p>1 MR. BRISSSENDEN: Are you referring the</p> <p>2 witness to another exhibit?</p> <p>3 Q. (BY MS. BERKOWER) Yes, I'm referring to</p> <p>4 exhibit --</p> <p>5 A. Is that 434? Is that it?</p> <p>6 Q. Yes.</p> <p>7 A. Okay.</p> <p>8 Q. Do you remember the question?</p> <p>9 A. Is it different, I believe, that you asked.</p> <p>10 Q. Yes.</p> <p>11 A. Yes. And give me one second. It appears</p> <p>12 there is some difference.</p> <p>13 Q. What are the differences?</p> <p>14 A. A difference would be that the driver's</p> <p>15 license in Senate Bill 14 that is required to not have</p> <p>16 expired, whereas in Senate Bill 362 the language says,</p> <p>17 "A driver's license from the Department of Public</p> <p>18 Safety that has not expired or that expired no earlier</p> <p>19 than two years before the date of presentation" (as</p> <p>20 read). So that's a difference.</p> <p>21 Q. Does it also require an unexpired military ID</p> <p>22 versus not including that requirement in 362?</p> <p>23 A. Well, you're correct except that I guess 362</p> <p>24 is silent on the issue of whether it can be expired or</p> <p>25 not. Where 14 specifically states it cannot be</p>





<p style="text-align: center;">189</p> <p>1 expired, 362 doesn't make it clear.</p> <p>2 Q. Does 362 permit federal or state issue photo</p> <p>3 ID; whereas, the S.B. 14 as filed does not?</p> <p>4 A. You are correct.</p> <p>5 Q. Does S.B. 362 permit non-photo identification</p> <p>6 in some circumstances; whereas, S.B. 14 as filed does</p> <p>7 not?</p> <p>8 A. That is correct.</p> <p>9 Q. Is it safe to say that S.B. 14 has fewer types</p> <p>10 of permissible identification than S.B. 362?</p> <p>11 A. It appears that would be correct in comparing</p> <p>12 them.</p> <p>13 Q. Is there any evidence in the public record in</p> <p>14 the time between when S.B. 362 was developed and the</p> <p>15 time that S.B. 14 was developed that indicated that</p> <p>16 fewer types of identifications should be accepted at</p> <p>17 the polls in order to ensure election integrity?</p> <p>18 A. I don't know.</p> <p>19 Q. Is it fair to say that S.B. 14 was</p> <p>20 substantially different from S.B. 362?</p> <p>21 MR. BRISSSENDEN: Objection, vague.</p> <p>22 THE WITNESS: I don't know what</p> <p>23 "substantially" means.</p> <p>24 Q. (BY MS. BERKOWER) Is it fair to say there</p> <p>25 were a number of changes from S.B. 362 to S.B. 14?</p>	<p style="text-align: center;">191</p> <p>1 THE WITNESS: Senate Bill 362 appears to</p> <p>2 have six options and Senate Bill 14 appears to have</p> <p>3 four.</p> <p>4 Q. (BY MS. BERKOWER) Doesn't Senate Bill 362</p> <p>5 also have a number of nonphotographic identification</p> <p>6 options there as well?</p> <p>7 A. Certainly.</p> <p>8 Q. So would that be more than six options?</p> <p>9 A. Well, it would be more than six options that</p> <p>10 don't -- well, six options that require a photo and</p> <p>11 then there are others that do not.</p> <p>12 Q. So is it fair to say there are fewer -- fewer</p> <p>13 acceptable identification options for voters under</p> <p>14 S.B. 14?</p> <p>15 A. I'm certain that's easily said. I don't know</p> <p>16 where you need my expertise for that.</p> <p>17 Q. Okay. What is a military ID?</p> <p>18 A. I am not an expert on that. I would assume</p> <p>19 it's an ID issued to a member of the United States</p> <p>20 military.</p> <p>21 Q. Do you know how many different forms of</p> <p>22 military ID there are?</p> <p>23 A. I know there are several, but I don't know the</p> <p>24 number.</p> <p>25 Q. Do you know if military ID is issued to</p>
<p style="text-align: center;">190</p> <p>1 A. I would agree that there were changes.</p> <p>2 Q. Is it fair to say that S.B. 14 was stricter</p> <p>3 than S.B. 362?</p> <p>4 MR. BRISSSENDEN: Objection, vague. And</p> <p>5 to the extent that the question is requiring the</p> <p>6 witness to disclose mental impressions, his opinions,</p> <p>7 his views about S.B. 14, I instruct him not to answer.</p> <p>8 Q. (BY MS. BERKOWER) Are you following your</p> <p>9 counsel's instruction?</p> <p>10 A. Do you mean repeating the question?</p> <p>11 Q. I said, is it fair to say that S.B. 14 is</p> <p>12 stricter than S.B. 362?</p> <p>13 MR. BRISSSENDEN: Same objection and same</p> <p>14 instruction.</p> <p>15 THE WITNESS: I follow the instruction.</p> <p>16 Q. (BY MS. BERKOWER) Is it fair to say there are</p> <p>17 fewer options for voters to present identification</p> <p>18 under S.B. 14 as filed than S.B. 362?</p> <p>19 MR. BRISSSENDEN: Objection, vague. To</p> <p>20 the extent that you can answer the question based upon</p> <p>21 your review of the two exhibits that are in front of</p> <p>22 you and the number of -- and comparing the two exhibits</p> <p>23 and the number of identifications listed there, you may</p> <p>24 answer. Otherwise, if you cannot, then I instruct you</p> <p>25 not to answer on the basis of privilege.</p>	<p style="text-align: center;">192</p> <p>1 noncitizens?</p> <p>2 A. I do not know.</p> <p>3 Q. Do you know if military ID is issued to</p> <p>4 contractors?</p> <p>5 A. I do not know.</p> <p>6 Q. If I've asked you this, I'm sorry. I don't</p> <p>7 remember. Do you know what a citizenship certificate</p> <p>8 is?</p> <p>9 A. Yeah, you did ask that, and I don't really</p> <p>10 know. Actually, you may have asked if I've seen one.</p> <p>11 I don't know if you asked me whether I know what one</p> <p>12 is.</p> <p>13 Q. Do you know what one is?</p> <p>14 A. I'm familiar with it, but I'm not --</p> <p>15 Q. Do you know how much it costs -- I'm sorry.</p> <p>16 A. Go ahead.</p> <p>17 Q. Do you know how much it costs to obtain one?</p> <p>18 A. I do not.</p> <p>19 Q. Do you know how much it costs to obtain a</p> <p>20 replacement citizenship certificate?</p> <p>21 A. I do not know.</p> <p>22 Q. Do you know what you would have to do to get a</p> <p>23 replacement citizenship certificate?</p> <p>24 A. I do not.</p> <p>25 Q. Do you know how long it would take to get a</p>



<p style="text-align: center;">193</p> <p>1 replacement citizenship certificate?</p> <p>2 A. I do not.</p> <p>3 Q. Do you know if citizenship certificates always</p> <p>4 contain a photograph?</p> <p>5 A. I don't know.</p> <p>6 Q. Do you know how much it cost to obtain a US</p> <p>7 passport?</p> <p>8 A. I don't know.</p> <p>9 Q. Do you know what underlying documents you</p> <p>10 would need to get a US passport?</p> <p>11 A. I could guess, but I don't really know.</p> <p>12 Q. Do you know how long it would take to get a</p> <p>13 US passport?</p> <p>14 A. I think the timeframe varies, but I don't know</p> <p>15 absolutely.</p> <p>16 Q. What does the term "legislative emergency"</p> <p>17 mean within the Texas Legislature?</p> <p>18 A. I believe there's a record or a document of</p> <p>19 that. I can't quote it to you.</p> <p>20 Q. Are there any -- who declares a legislative</p> <p>21 emergency?</p> <p>22 A. The governor.</p> <p>23 Q. Are there any constraints on what he may</p> <p>24 declare to be a legislative emergency?</p> <p>25 A. I am not an expert on that part of the law and</p>	<p style="text-align: center;">195</p> <p>1 question is limited to whether the -- whether or not</p> <p>2 the witness has knowledge as to why that allows him to</p> <p>3 answer the question with a simple yes or no answer, he</p> <p>4 may answer.</p> <p>5 MS. BERKOWER: All right.</p> <p>6 Q. (BY MS. BERKOWER) Do you need me to restate?</p> <p>7 A. I believe the question is do I know why that</p> <p>8 was done. And I do not.</p> <p>9 Q. Do you know if any other election law has ever</p> <p>10 been designated a legislative emergency?</p> <p>11 A. I don't know.</p> <p>12 Q. What other types of legislation do you know of</p> <p>13 that were designated as legislative emergencies?</p> <p>14 A. Off the top of my head, I don't recall. I</p> <p>15 know there have been.</p> <p>16 Q. Do you remember if any immigration-related</p> <p>17 issues have been designated a legislative emergency?</p> <p>18 A. No. I know there's a record. I don't -- I</p> <p>19 don't know.</p> <p>20 Q. What are the consequences of legislation being</p> <p>21 designated an emergency?</p> <p>22 A. They're rather insignificant, frankly. To the</p> <p>23 best of my knowledge -- I could be inaccurate with the</p> <p>24 fact to some degree. I'm not intending to be. But</p> <p>25 it's simply their rules in the legislative process that</p>
<p style="text-align: center;">194</p> <p>1 what's the procedure. But I don't believe there are</p> <p>2 constraints, but I don't know.</p> <p>3 Q. Was photographic voter ID declared to be a</p> <p>4 legislative emergency for the 82nd Legislature?</p> <p>5 A. I believe the record reflects that it was.</p> <p>6 Q. When did you first learn about this</p> <p>7 designation?</p> <p>8 A. I don't recall. I would imagine within a day</p> <p>9 or two of it being declared an emergency.</p> <p>10 Q. Do you know why Governor Perry designated</p> <p>11 voter ID as a legislative emergency?</p> <p>12 MR. BRISSENDEN: I'm going to instruct</p> <p>13 the witness not to divulge or disclose his thoughts or</p> <p>14 mental analysis and questions about S.B. 14 and the</p> <p>15 legislative act of -- in which the emergency -- the</p> <p>16 legislation has deemed to be an emergency and instruct</p> <p>17 the witness not to answer.</p> <p>18 MS. BERKOWER: I asked if he knows why,</p> <p>19 not why.</p> <p>20 MR. BRISSENDEN: I don't believe that was</p> <p>21 the question.</p> <p>22 MS. BERKOWER: It was the question. I</p> <p>23 just read it right off the screen. But can you read it</p> <p>24 back, please?</p> <p>25 MR. BRISSENDEN: Yes, ma'am. If the</p>	<p style="text-align: center;">196</p> <p>1 you cannot bring a bill to the floor within the first</p> <p>2 100 days. And the governor declaring something an</p> <p>3 emergency simply allows that legislation to come before</p> <p>4 the body in that first 100 days. It doesn't require</p> <p>5 that it does and it simply means that it could.</p> <p>6 Q. Basically it can jump the line?</p> <p>7 A. No.</p> <p>8 MR. BRISSENDEN: Objection to the extent</p> <p>9 that it mischaracterizes testimony and the record.</p> <p>10 Q. (BY MS. BERKOWER) I don't -- I don't know if</p> <p>11 you said this or not, but after the governor declares a</p> <p>12 legislative emergency, does that Legislature have to</p> <p>13 consider the issue within the first 60 days?</p> <p>14 A. It does not, and there is precedent to show</p> <p>15 that we don't.</p> <p>16 Q. But it may. It doesn't have to?</p> <p>17 A. It allows it to.</p> <p>18 Q. Do you know who was involved with the decision</p> <p>19 to designate S.B. 14 as a legislative emergency?</p> <p>20 A. I do not -- well, that's unfair. I have to</p> <p>21 assume being the governor did it, he was. But beyond</p> <p>22 that, I don't know.</p> <p>23 Q. Did you follow S.B. 14 at all during its</p> <p>24 progress through the Senate?</p> <p>25 A. Vaguely, you know, just from an extraordinary</p>



<p style="text-align: center;">197</p> <p>1 periphery of it.</p> <p>2 Q. Did -- what is your memory of its progress in</p> <p>3 the Senate just as far as the public record goes?</p> <p>4 A. I don't have much of one other than I was</p> <p>5 paying attention to it to know when I would have to</p> <p>6 then hold a hearing in the House.</p> <p>7 Q. Is that -- were you filing it because you were</p> <p>8 the chair of the select committee?</p> <p>9 A. No, because I don't even know if I was the</p> <p>10 chair of the select committee, at that point. I don't</p> <p>11 recall. And I wasn't following it closely. I think</p> <p>12 the -- well --</p> <p>13 Q. Did you attend any Senate hearings on S.B. 14?</p> <p>14 A. Not at all, no.</p> <p>15 Q. Did you have any conversations with senators</p> <p>16 about S.B. 14?</p> <p>17 A. I believe I had one that was brief letting me</p> <p>18 know that if I need any background --</p> <p>19 MR. BRISSENDEN: I'll instruct you that</p> <p>20 in terms of disclosing the substance of a</p> <p>21 communication, I'll instruct you not to disclose that</p> <p>22 communication that you had with the legislator.</p> <p>23 Q. (BY MS. BERKOWER) Who was the communication</p> <p>24 with?</p> <p>25 A. Senator Fraser.</p>	<p style="text-align: center;">199</p> <p>1 sponsor of the Senate Bill. There's a record we can</p> <p>2 look at.</p> <p>3 Q. Do you know how it came about that Ms. Harless</p> <p>4 was the main sponsor of the bill?</p> <p>5 MR. BRISSENDEN: And to the extent that</p> <p>6 you have information or knowledge that is part of the</p> <p>7 public record and you are relying upon that and you can</p> <p>8 answer that question, you may do so. To the extent</p> <p>9 that that question requires you to disclose</p> <p>10 communications that you had with other legislators,</p> <p>11 their staff, or your own staff, with Texas legislative</p> <p>12 counsel or state agencies or it requires you to</p> <p>13 disclose thoughts, opinions, and mental analysis with</p> <p>14 regards to S.B. 14, I instruct you not to answer.</p> <p>15 THE WITNESS: I will have to use</p> <p>16 privilege on that.</p> <p>17 MS. BERKOWER: I did ask that as a yes or</p> <p>18 no question. Will you still -- are you still going to</p> <p>19 interpose your objection to that? I asked if you</p> <p>20 know how -- I said, do you know how Senator Harless</p> <p>21 became the main sponsor.</p> <p>22 MR. BRISSENDEN: To the extent you can</p> <p>23 answer that question limited to whether you have</p> <p>24 knowledge or don't have knowledge, you can answer</p> <p>25 limited to a yes or no. But beyond that, I instruct</p>
<p style="text-align: center;">198</p> <p>1 Q. When did it take place?</p> <p>2 A. I don't recall exactly.</p> <p>3 Q. Was it early in the legislative session?</p> <p>4 A. Yes, it was early.</p> <p>5 Q. Do you remember if it was before the bill</p> <p>6 passed the Senate?</p> <p>7 A. I don't think so. I think it was there</p> <p>8 afterward. I think it was between the time it passed</p> <p>9 the Senate and we held the hearing in the House. And</p> <p>10 it was a very brief conversation.</p> <p>11 Q. And I guess I should have specified this</p> <p>12 before. When I asked about communications with</p> <p>13 legislators I also should have asked you, did you have</p> <p>14 any communications with the staff members of</p> <p>15 legislators concerning S.B. 14?</p> <p>16 A. I don't think I did, actually.</p> <p>17 Q. Who were the sponsors of S.B. 14 in the House?</p> <p>18 A. There's record of that. I -- I think it ended</p> <p>19 up being numerous members.</p> <p>20 Q. I'm sorry. Who?</p> <p>21 A. I said I think it ended up being numerous</p> <p>22 members. There's a record. I don't off the top of my</p> <p>23 head recall.</p> <p>24 Q. Do you remember who any of the sponsors were?</p> <p>25 A. I know Representative Harless was the House</p>	<p style="text-align: center;">200</p> <p>1 you not to answer.</p> <p>2 THE WITNESS: I was provided anecdotal</p> <p>3 information, but I don't know if it's accurate.</p> <p>4 Q. (BY MS. BERKOWER) Okay. Where was the bill</p> <p>5 sent when it arrived in the House?</p> <p>6 A. Again, that would be part of the record. I</p> <p>7 assume it was sent to the select committee, but I'm not</p> <p>8 certain. But we can check the record in that.</p> <p>9 Q. That was the committee we talked about</p> <p>10 earlier?</p> <p>11 A. Yes, ma'am.</p> <p>12 Q. Did the special committee hold any hearings?</p> <p>13 A. It held one.</p> <p>14 Q. Did witnesses provide testimony at that</p> <p>15 hearing?</p> <p>16 A. Yes, they did.</p> <p>17 Q. Do you remember who provided testimony?</p> <p>18 A. Again, the record would have the witness list,</p> <p>19 and it would show us everybody who testified.</p> <p>20 Q. Do you remember if somebody named</p> <p>21 Skipper Wallace testified?</p> <p>22 A. Do I specifically remember that? No. My</p> <p>23 guess would be he did.</p> <p>24 Q. Do you remember what he said?</p> <p>25 A. Not at all.</p>



<p style="text-align: center;">201</p> <p>1 Q. Have you ever met or spoken with him?</p> <p>2 A. Absolutely.</p> <p>3 Q. Yes?</p> <p>4 A. Yes.</p> <p>5 Q. What have you talked about with</p> <p>6 Skipper Wallace with regard to voter identification?</p> <p>7 MR. BRISSENDEN: Can we take a break just</p> <p>8 a minute?</p> <p>9 MS. BERKOWER: Sure. Well, can he answer</p> <p>10 the question first? I guess there's a question</p> <p>11 pending.</p> <p>12 MR. BRISSENDEN: Well, it depends on --</p> <p>13 it depends on his answer to my question real quick.</p> <p>14 And it will help -- it will help make the flow go a lot</p> <p>15 quicker.</p> <p>16 MS. BERKOWER: So you're saying you want</p> <p>17 to consult with him about a privilege issue? Is that</p> <p>18 what you're getting at?</p> <p>19 MR. BRISSENDEN: Yes. Well, it could</p> <p>20 potentially implicate a privilege issue.</p> <p>21 MS. BERKOWER: All right. Let's take</p> <p>22 a --</p> <p>23 MR. BRISSENDEN: We just need two</p> <p>24 minutes, yeah.</p> <p>25 MS. BERKOWER: Yeah. I mean, my</p>	<p style="text-align: center;">203</p> <p>1 A. I mean, I -- yeah, sure. He was for it. I</p> <p>2 mean --</p> <p>3 Q. Do you remember what he testified about</p> <p>4 concerning S.B. 14?</p> <p>5 A. I really don't remember specifically.</p> <p>6 Q. You said you've met and spoken with him</p> <p>7 before?</p> <p>8 A. I have.</p> <p>9 Q. What was -- when did you meet with him?</p> <p>10 A. I met with him during the last legislative</p> <p>11 session. I think it's in the documents you-all</p> <p>12 received today. And I met with him very briefly and</p> <p>13 told him that his assistance and help was not needed to</p> <p>14 pass Senate Bill 14.</p> <p>15 Q. What type of help and assistance did he want</p> <p>16 to provide you?</p> <p>17 A. I didn't bother to find out.</p> <p>18 Q. Okay. Did you ever solicit any help from</p> <p>19 Skipper Wallace?</p> <p>20 A. Not at all.</p> <p>21 Q. Do you know who Katherine Engelbrecht is?</p> <p>22 A. I do simply because I was shown a document</p> <p>23 that her name was on.</p> <p>24 Q. Who is she?</p> <p>25 A. Otherwise, I wouldn't have known who she was.</p>
<p style="text-align: center;">202</p> <p>1 understanding is that the reason -- my concern is that</p> <p>2 Skipper Wallis is -- is not a legislator. He is not</p> <p>3 well.</p> <p>4 MR. BRISSENDEN: Well, that's -- let's --</p> <p>5 let me just find that out and then let's -- we'll</p> <p>6 reconvene this.</p> <p>7 MS. BERKOWER: Okay. That's fine.</p> <p>8 MR. BRISSENDEN: Give me just a minute.</p> <p>9 Recess.</p> <p>10 (Discussion off the record)</p> <p>11 MR. BRISSENDEN: Thank you for allowing</p> <p>12 me to take a break. I was not aware of who Mr. Wallace</p> <p>13 was. I was just trying to make sure that it wasn't</p> <p>14 something that would invoke privilege.</p> <p>15 THE WITNESS: And it doesn't, so let's</p> <p>16 go.</p> <p>17 Q. (BY MS. BERKOWER) So who is Skipper Wallace?</p> <p>18 A. To the best of my knowledge, I believe he is a</p> <p>19 Republican party chair who was the head of his -- not</p> <p>20 to make a joke. I guess there was an organization of</p> <p>21 the Republican party chairs, and was the head of that.</p> <p>22 A very, very prestigious position.</p> <p>23 Q. Do you know if he supported S.B. 14?</p> <p>24 A. Oh, I'm sure that he did.</p> <p>25 Q. Well, do you remember his position on S.B. 14?</p>	<p style="text-align: center;">204</p> <p>1 Q. Who is she?</p> <p>2 A. She's is the leader of the King Street</p> <p>3 Patriots, which is a group out of Houston.</p> <p>4 Q. What do the King Street Patriots do?</p> <p>5 A. I really don't know. I guess they're a</p> <p>6 citizen active grassroots-type organization.</p> <p>7 Q. Do you know if she attended the special</p> <p>8 committee hearing?</p> <p>9 A. That I do not know. If I had to take a guess,</p> <p>10 I would think she or someone from her group did. But I</p> <p>11 don't know because I don't know who she is.</p> <p>12 Q. Do you remember if she participated at all</p> <p>13 during that -- during that hearing?</p> <p>14 A. I don't recall. But, again, it would be in</p> <p>15 the record if she did.</p> <p>16 Q. Have you ever met or spoken with her?</p> <p>17 A. I want to be very clear with this. I have</p> <p>18 not. I was shown a document this morning that showed</p> <p>19 that she was on my schedule to meet with a member of my</p> <p>20 staff. I did not meet with her. And so there is</p> <p>21 clarity on that. There is a document that shows that</p> <p>22 she had a meeting scheduled with a member of my staff.</p> <p>23 I was not present at that meeting and I have never, to</p> <p>24 my knowledge, met the woman.</p> <p>25 Q. Did your staff relay any information to you</p>



<p style="text-align: center;">205</p> <p>1 that they received from Ms. Engelbrecht?</p> <p>2 A. I believe that they did.</p> <p>3 Q. What was that information?</p> <p>4 A. She wants you to pass better ID.</p> <p>5 Q. What -- other than her opinion, was there</p> <p>6 anything else she provided to your office?</p> <p>7 A. Not at all.</p> <p>8 Q. Did she -- do you know of anymore details of</p> <p>9 why she supported the bill?</p> <p>10 A. I have no idea.</p> <p>11 Q. And I guess something I should have asked you</p> <p>12 earlier --</p> <p>13 A. Sure.</p> <p>14 Q. -- do you approve all of the correspondence</p> <p>15 that goes out of your office?</p> <p>16 A. I'm probably not perfect at that, no.</p> <p>17 Q. Do you as a general matter try to approve the</p> <p>18 correspondence that goes out of your office?</p> <p>19 A. Not all of it. Most of it.</p> <p>20 Q. How do you decide what to approve and what not</p> <p>21 to approve?</p> <p>22 A. It's usually probably based on time or</p> <p>23 importance.</p> <p>24 Q. Do you usually review constituents'</p> <p>25 communications with your office?</p>	<p style="text-align: center;">207</p> <p>1 A. It -- it would depend. It would most likely</p> <p>2 be Shera Eichler, my chief of staff. But it may also</p> <p>3 be the staff member who's dealing with that</p> <p>4 correspondence.</p> <p>5 Q. Have you ever had communications with</p> <p>6 Ms. Eichler -- like do you have a general policy with</p> <p>7 her on how to respond to communications when you're not</p> <p>8 able to review them before they go out?</p> <p>9 A. Yes.</p> <p>10 Q. What is that policy?</p> <p>11 A. Answer their question.</p> <p>12 Q. Based on what?</p> <p>13 A. The facts.</p> <p>14 Q. Will she -- if you're not able to review a</p> <p>15 particular piece of correspondence, will she ask you</p> <p>16 questions to get your views on a particular issue?</p> <p>17 MR. BRISSENDEN: Objection to the extent</p> <p>18 the question calls for speculation.</p> <p>19 Q. (BY MS. BERKOWER) You may answer.</p> <p>20 MR. BRISSENDEN: If you know.</p> <p>21 THE WITNESS: It just depends.</p> <p>22 Q. (BY MS. BERKOWER) Has that happened?</p> <p>23 A. Has what happened?</p> <p>24 Q. Where you weren't able, due to time pressure,</p> <p>25 to review a particular piece of --</p>
<p style="text-align: center;">206</p> <p>1 A. Most usually, but not always.</p> <p>2 Q. Do you remember if you reviewed constituent</p> <p>3 communications concerning voter identification</p> <p>4 legislation?</p> <p>5 A. I probably reviewed some, but not all.</p> <p>6 Q. If there -- do you ever have form letters that</p> <p>7 you send to respond to constituents?</p> <p>8 A. Not really. And -- let me explain. Many</p> <p>9 times -- I try not to send form letters, but many times</p> <p>10 there's only so many responses or so many different</p> <p>11 variations of response, so letters become somewhat of a</p> <p>12 form letter. But usually we try to be very specific to</p> <p>13 questions and not create a -- we do not have a practice</p> <p>14 of creating a boilerplate form letter that is simply</p> <p>15 sent generally to any question.</p> <p>16 Q. Would you say there is some repetition in</p> <p>17 language?</p> <p>18 A. Oh, absolutely, yes.</p> <p>19 Q. And do you approve that type of language</p> <p>20 that's going to be going out in more than one piece of</p> <p>21 correspondence?</p> <p>22 A. Usually I do, but there's certainly been times</p> <p>23 where it has happened and I did not.</p> <p>24 Q. Who is responsible for those communications if</p> <p>25 you're not approving them?</p>	<p style="text-align: center;">208</p> <p>1 A. Yes, that has happened and something has gone</p> <p>2 out and I didn't review it. Yes, that has happened.</p> <p>3 Q. And has, in those circumstances, Ms. Eichler</p> <p>4 spoken with you --</p> <p>5 A. It may not have been her. I want to be clear.</p> <p>6 It may not have only been with her. It could have</p> <p>7 been with --</p> <p>8 Q. Will someone in your office speak with you</p> <p>9 generally about the correspondence to get your approval</p> <p>10 if you're not able to review it personally?</p> <p>11 A. Usually, yes, but not always.</p> <p>12 Q. Do you know of any times where you have</p> <p>13 neither been able to review the correspondence nor been</p> <p>14 able to speak with a staff person before it went out?</p> <p>15 A. Specifically, no, but I know it's happened.</p> <p>16 Q. Do you know if that happened with regard to</p> <p>17 any correspondence concerning voter ID legislation?</p> <p>18 A. Again, specifically, I don't know, but I</p> <p>19 actually believe it probably has because at times we</p> <p>20 receive more than not.</p> <p>21 Q. When S.B. 14 was heard by your committee, did</p> <p>22 you publicly state that the bill was too weak?</p> <p>23 A. I don't know. I may have.</p> <p>24 Q. Do you ever produce anything called an</p> <p>25 Insider's Report?</p>





<p style="text-align: center;">209</p> <p>1 A. Absolutely.</p> <p>2 Q. What is that?</p> <p>3 A. It is an e-mail newsletter that I send to</p> <p>4 constituents in my district.</p> <p>5 Q. Do you write that personally?</p> <p>6 A. No.</p> <p>7 Q. Who writes that?</p> <p>8 A. My staff.</p> <p>9 Q. Would that be Ms. Eichler?</p> <p>10 A. It really varies.</p> <p>11 Q. Do they speak with you about the contents of</p> <p>12 the report?</p> <p>13 A. Sure.</p> <p>14 Q. Do you review it before it goes out?</p> <p>15 A. Not always, but usually.</p> <p>16 Q. I have something that -- I think it's going to</p> <p>17 be Exhibit 441.</p> <p>18 A. I think you're right.</p> <p>19 (Exhibit No. 442 marked)</p> <p>20 THE WITNESS: Oh, I'm sorry. No, it's</p> <p>21 not 441.</p> <p>22 Q. (BY MS. BERKOWER) No, I'm sorry. 442. Thank</p> <p>23 you for the correction. 442.</p> <p>24 Do you recognize this?</p> <p>25 A. I guess.</p>	<p style="text-align: center;">211</p> <p>1 privileged acts by legislators.</p> <p>2 MR. BRISSENDEN: That is my understanding</p> <p>3 of the court's order, although the court states on</p> <p>4 Page 6 of the order issued yesterday that although the</p> <p>5 communications are not privileged, questioning a</p> <p>6 legislator or staff about the communication that would</p> <p>7 require him to reveal his thought processes and his</p> <p>8 subjective motivations about S.B. 14 or any legislative</p> <p>9 activity with respect to the law are -- apply to</p> <p>10 privilege.</p> <p>11 So based upon that, the court's order</p> <p>12 there, I'm instructing the witness not to answer the</p> <p>13 question about his opinions and views as stated in the</p> <p>14 question.</p> <p>15 MS. BERKOWER: Okay. Well, I think</p> <p>16 that -- I'm not sure you heard my question correctly</p> <p>17 because this was more of a question generally about the</p> <p>18 creation of the Insider's Report, not anything specific</p> <p>19 to any legislation, not anything specific to any voter</p> <p>20 identification legislation, but merely a matter of</p> <p>21 whether it's fair to say that when Mr. Bonnen -- or</p> <p>22 Representative Bonnen produces his Insider's Report and</p> <p>23 distributes it as a newsletter to his constituents that</p> <p>24 it can be fairly characterized as expressing his views</p> <p>25 on what is happening in the Legislature.</p>
<p style="text-align: center;">210</p> <p>1 Q. What is it?</p> <p>2 A. Well, the printing looks a little different,</p> <p>3 but I assume it is my Insider's Report.</p> <p>4 Q. What's the date on it?</p> <p>5 A. March 6th of 2011.</p> <p>6 Q. Is there a section that talks about voter</p> <p>7 identification legislation?</p> <p>8 A. Yes, there is.</p> <p>9 Q. That -- reading from that section, you say,</p> <p>10 "As the chair of" -- and is it fair to say that reading</p> <p>11 from this is more or less stating your views or</p> <p>12 expressing your views?</p> <p>13 MR. BRISSENDEN: I'm going to object to</p> <p>14 the extent that the question of the witness -- that</p> <p>15 would require him to reveal his opinions, motivations,</p> <p>16 mental thought processes about S.B. 14. I would</p> <p>17 instruct the witness not to answer.</p> <p>18 MS. BERKOWER: All I asked is whether the</p> <p>19 newsletter, the Insider's Report, as a general matter</p> <p>20 can be characterized as expressing his views on</p> <p>21 whatever its contents contain. You're objecting to</p> <p>22 that?</p> <p>23 MR. BRISSENDEN: That is correct.</p> <p>24 MS. BERKOWER: Newsletters and other</p> <p>25 similar types of political communications are not</p>	<p style="text-align: center;">212</p> <p>1 MR. BRISSENDEN: And my response would</p> <p>2 be, first of all, that was not the question that you</p> <p>3 phrased. And, secondly, the paragraph that you're</p> <p>4 quoting from makes specific reference to S.B. 14.</p> <p>5 MS. BERKOWER: I didn't quote. I didn't</p> <p>6 quote. I restarted the question and said, as a general</p> <p>7 matter do those newsletters reflect -- or can they be</p> <p>8 characterized as expressing your views on what's going</p> <p>9 on in the House. Will you accept that question?</p> <p>10 MR. BRISSENDEN: If the question is, do</p> <p>11 these reports, as a general matter, typically reflect</p> <p>12 your communication as to what is going on in the House,</p> <p>13 I'll allow that -- I'll allow him to answer.</p> <p>14 Q. (BY MS. BERKOWER) Do these Insider's Reports,</p> <p>15 as a general matter -- is it fair to characterize them</p> <p>16 as expressing your views on what's going on in the</p> <p>17 House?</p> <p>18 A. I guess, yes.</p> <p>19 Q. So turning your attention to the section</p> <p>20 entitled "Voter Identification Legislation" --</p> <p>21 A. Yes.</p> <p>22 Q. -- you wrote, "My committee is working to</p> <p>23 strengthen the voter ID bill, S.B. 14, that was passed</p> <p>24 in the Senate and contained exception, but</p> <p>25 substantially weakened the effectiveness of the bill"</p>



<p style="text-align: center;">213</p> <p>1 (as read).</p> <p>2 Is that accurate?</p> <p>3 A. It's accurate that that's what it reads.</p> <p>4 Q. Did your committee then modify S.B. 14?</p> <p>5 A. I don't remember. I think -- and there's a</p> <p>6 record of all of it. I think Representative Harless</p> <p>7 may have brought in a committee substitute that may</p> <p>8 have changed the bill, but I'm not positive whether we</p> <p>9 did that or not.</p> <p>10 Q. I have what's going to be marked as</p> <p>11 Exhibit 443.</p> <p>12 (Exhibit No. 443 marked)</p> <p>13 Q. (BY MS. BERKOWER) Do you know what this is?</p> <p>14 A. It appears to be the House Journal.</p> <p>15 Q. What day is it the House Journal from?</p> <p>16 A. Monday, March the 21st of 2011.</p> <p>17 Q. Were you present that day?</p> <p>18 A. It appears the record reflects that I was</p> <p>19 present.</p> <p>20 Q. Do you know if S.B. 14 was considered on that</p> <p>21 day?</p> <p>22 A. I do not know, but I'll look further in the</p> <p>23 journal and find out.</p> <p>24 Q. Will you turn to Page 910?</p> <p>25 A. Okay. It appears that the committee's</p>	<p style="text-align: center;">215</p> <p>1 that you're able to answer that question relying solely</p> <p>2 upon what's been represented in the public record, you</p> <p>3 may answer. To the extent that you have information or</p> <p>4 knowledge beyond public record that is part of your</p> <p>5 knowledge or thoughts and opinions with regards to</p> <p>6 legislation, I instruct you not to answer.</p> <p>7 MS. BERKOWER: Well, I asked with regards</p> <p>8 to the public record. He said --</p> <p>9 THE WITNESS: Well --</p> <p>10 Q. (BY MS. BERKOWER) Sorry?</p> <p>11 A. Go ahead.</p> <p>12 Q. Unless you need clarification.</p> <p>13 A. Then go ahead and clarify.</p> <p>14 Q. I heard a quote from Representative Anchia</p> <p>15 that says he's "studied this thing for eight years now,</p> <p>16 almost six years, seven years actually, and we haven't</p> <p>17 been able to find much said voter impersonation." And</p> <p>18 I said, "Is this true based on the evidence in the</p> <p>19 public record?"</p> <p>20 A. And I don't believe Representative Anchia is</p> <p>21 the authority on this, and I don't agree with it.</p> <p>22 Q. Well, based on the public record, what is in</p> <p>23 there to discredit his statement that there isn't much</p> <p>24 voter fraud or voter impersonation?</p> <p>25 A. I don't have the record in front of me, but I</p>
<p style="text-align: center;">214</p> <p>1 substitute to S.B. 14 was heard on the second reading.</p> <p>2 Q. Turning your attention now to Page 911, do you</p> <p>3 see that there is an exchange there between</p> <p>4 Representative Anchia and Representative Harless?</p> <p>5 A. It appears there was.</p> <p>6 Q. Are we still on Page 911?</p> <p>7 A. Yes, ma'am.</p> <p>8 Q. Okay. Do you see there is a paragraph --</p> <p>9 well, the third entry from the bottom,</p> <p>10 Representative Anchia says, "We have studied this thing</p> <p>11 for eight years now -- almost six years -- seven years,</p> <p>12 actually, and we haven't been able to find much said</p> <p>13 voter impersonation" (as read).</p> <p>14 Do you see that?</p> <p>15 A. Actually, I don't.</p> <p>16 Q. It's the section that Anchia says, "Are you</p> <p>17 sure?"</p> <p>18 A. Okay.</p> <p>19 Q. And then about two lines down from there.</p> <p>20 A. Okay. I see it now.</p> <p>21 Q. Based on the evidence in the public record, is</p> <p>22 that accurate?</p> <p>23 A. I don't think it is.</p> <p>24 Q. Why not?</p> <p>25 MR. BRISSENDEN: Again, to the extent</p>	<p style="text-align: center;">216</p> <p>1 believe there are pieces of information in the record.</p> <p>2 I think the fact of the record we read earlier about</p> <p>3 the testimony from Jay Dyer of the Attorney</p> <p>4 General's -- from the Attorney General's office, where</p> <p>5 I go back to that exhibit -- I believe there were a</p> <p>6 couple hundred cases that were being dealt with.</p> <p>7 Q. I think it's 267 cases --</p> <p>8 A. That sounds right.</p> <p>9 Q. -- that was referred to the --</p> <p>10 A. Attorney General's office.</p> <p>11 Q. -- Attorney General's, with 35 convictions,</p> <p>12 dismissals and/or plea agreements, and 12 ongoing</p> <p>13 cases?</p> <p>14 A. I think there was more than that or there</p> <p>15 wasn't clarity on the rest. But, yes, that sounds</p> <p>16 reasonably accurate.</p> <p>17 Q. Other than that, do you know of any other</p> <p>18 examples of voter impersonation in the public record?</p> <p>19 A. I believe there are others. I don't have any</p> <p>20 in front of me.</p> <p>21 MR. BRISSENDEN: Just so the record is</p> <p>22 clear, the record that the witness is referring to is,</p> <p>23 I believe, Exhibit 438.</p> <p>24 THE WITNESS: 267 incidences of alleged</p> <p>25 illegal voting is defined by Section 64.012 of the</p>



<p style="text-align: center;">217</p> <p>1 Texas Election Code. 35 of those alleged violations</p> <p>2 have been resolved with guilty pleas, dismissals or</p> <p>3 plea agreements. 12 cases remain active and the</p> <p>4 remainder of the cases are still -- either still being</p> <p>5 investigated or the statute of limitations has expired.</p> <p>6 So --</p> <p>7 Q. (BY MS. BERKOWER) And that's you reading from</p> <p>8 the exhibit --</p> <p>9 A. Correct.</p> <p>10 Q. -- that your counsel just mentioned?</p> <p>11 A. That is, yes, ma'am.</p> <p>12 So for that reason and others, I do not</p> <p>13 agree with Mr. Anchia's statement.</p> <p>14 Q. Have you ever during your time on the</p> <p>15 elections committee or the special select committee</p> <p>16 heard evidence concerning mail-in ballot fraud?</p> <p>17 MR. BRISSENDEN: Again, the question, I</p> <p>18 believe, as phrased, is limited to what is in the</p> <p>19 public record?</p> <p>20 Q. Yes.</p> <p>21 A. I believe we have.</p> <p>22 Q. Do you remember what that evidence was?</p> <p>23 A. I do not. And I don't know if we heard much</p> <p>24 specific evidence.</p> <p>25 Q. Does S.B. 14 address mail-in ballot fraud, to</p>	<p style="text-align: center;">219</p> <p>1 Q. Did any of the legislation that you introduced</p> <p>2 that we've discussed today address mail-in ballot</p> <p>3 fraud?</p> <p>4 A. I never suggested that it would have.</p> <p>5 Q. In your memory of the public record, is there</p> <p>6 more evidence of mail-in ballot fraud versus in-person</p> <p>7 ballot fraud?</p> <p>8 A. I don't remember exactly, but I don't believe</p> <p>9 there was.</p> <p>10 Q. Do you think there was more evidence in the</p> <p>11 public record of in-person voter fraud than mail-in</p> <p>12 ballot fraud?</p> <p>13 A. I believe there was. For the periods in which</p> <p>14 the bills were being heard, that was the issue, was</p> <p>15 in-person voter fraud.</p> <p>16 Q. What do you mean by that?</p> <p>17 A. I mean that we were hearing bills that</p> <p>18 addressed the issue of voting with photo ID and were</p> <p>19 not addressing an issue of mail-in voter fraud, which</p> <p>20 is certainly an issue that can be addressed.</p> <p>21 Q. Just so I understand, are you saying that if</p> <p>22 mail-in voter fraud were a bigger problem than</p> <p>23 in-person voter fraud, you would likely have heard more</p> <p>24 bills about mail-in voter fraud?</p> <p>25 A. Not at all.</p>
<p style="text-align: center;">218</p> <p>1 your knowledge?</p> <p>2 A. I don't believe it does.</p> <p>3 Q. Does any of the predecessor legislation we've</p> <p>4 discussed today, S.B. 362, or HB 1706, or S.B. 218</p> <p>5 address mail-in ballot fraud?</p> <p>6 MR. BRISSENDEN: Objection, compound.</p> <p>7 Q. (BY MS. BERKOWER) Do you understand the</p> <p>8 question?</p> <p>9 Does S.B. 362 address mail-in ballot</p> <p>10 fraud?</p> <p>11 A. I don't understand the relevance.</p> <p>12 Q. Well, I don't --</p> <p>13 MR. BRISSENDEN: Do the best you can and</p> <p>14 answer the question.</p> <p>15 THE WITNESS: No, I do not believe that</p> <p>16 they do.</p> <p>17 Q. (BY MS. BERKOWER) Did H.B. 1706 address</p> <p>18 mail-in ballot fraud?</p> <p>19 A. Which one -- or which one is 1706?</p> <p>20 Q. That was the first one we discussed today.</p> <p>21 A. I don't believe it did.</p> <p>22 Q. Did HB 218 address mail-in ballot fraud? That</p> <p>23 was the second --</p> <p>24 A. I don't think the intention of that bill was</p> <p>25 to address mail-in ballot fraud.</p>	<p style="text-align: center;">220</p> <p>1 MR. BRISSENDEN: Object.</p> <p>2 A. That's not what I'm saying.</p> <p>3 MS. BERKOWER: I'm just trying to</p> <p>4 understand his testimony.</p> <p>5 THE WITNESS: Well, my testimony is that</p> <p>6 we heard testimony on the issue we were hearing. And</p> <p>7 the issue we were hearing was on voter identification</p> <p>8 and in-person voter fraud or fraud in voter rolls. Not</p> <p>9 legislation and issues dealing with voter mail-in</p> <p>10 fraud. It's a separate issue. Was it raised? Yes.</p> <p>11 Q. (BY MS. BERKOWER) Wasn't the interim charge</p> <p>12 in 2010 to examine the presence of fraud in Texas</p> <p>13 elections?</p> <p>14 MR. BRISSENDEN: Are you referring to a</p> <p>15 prior exhibit?</p> <p>16 MS. BERKOWER: Your Honor, I'm sorry. I</p> <p>17 don't have the number in front of me. But I think --</p> <p>18 THE WITNESS: Yeah, it's right here.</p> <p>19 MS. BERKOWER: -- should have it.</p> <p>20 MR. BRISSENDEN: 438.</p> <p>21 THE WITNESS: It very well could have</p> <p>22 been, but none of the bills that we ever heard a</p> <p>23 hearing on dealt with that issue.</p> <p>24 Q. (BY MS. BERKOWER) Okay. But I think you have</p> <p>25 the exhibit in front of you now. Do you --</p>



<p style="text-align: center;">221</p> <p>1 A. I do.</p> <p>2 Q. -- the interim charge was to examine the</p> <p>3 presence of fraud in Texas elections, not in-person</p> <p>4 fraud specifically?</p> <p>5 A. Correct. And I'm not talking about interim</p> <p>6 charges. I'm talking about hearings before the</p> <p>7 legislative committees while in session, hearing</p> <p>8 specific pieces of legislation that you were asking me</p> <p>9 about.</p> <p>10 Q. But wasn't the recommendation that this</p> <p>11 interim charge reported -- made --</p> <p>12 A. Well --</p> <p>13 Q. -- concerning legislation that should be</p> <p>14 introduced in 2011?</p> <p>15 A. Well, respectfully, you were asking me about</p> <p>16 testimony about specific pieces. You had rattled off</p> <p>17 specific bill numbers and you had requested information</p> <p>18 about those. You didn't ask me about the interim</p> <p>19 charge.</p> <p>20 Q. Okay. Well, now I'm asking about the interim</p> <p>21 charge.</p> <p>22 A. Fair enough.</p> <p>23 Q. So wasn't the interim charge supposed to make</p> <p>24 a recommendation about appropriate solutions to voter</p> <p>25 fraud in Texas for the 2011 legislature?</p>	<p style="text-align: center;">223</p> <p>1 please.</p> <p>2 (The requested portion was read)</p> <p>3 MR. BRISSENDEN: Same objection to the</p> <p>4 extent that the witness has testified previously he did</p> <p>5 not prepare this document. But to the extent he is</p> <p>6 able to answer it sitting here today, he may answer.</p> <p>7 But to the extent it calls for him to speculate as to</p> <p>8 what was intended by the drafter of the document, I</p> <p>9 would object.</p> <p>10 MS. BERKOWER: I'm asking him solely</p> <p>11 about the language on the page in front of him.</p> <p>12 MR. BRISSENDEN: I understand.</p> <p>13 THE WITNESS: The language on the page in</p> <p>14 front of me, you were asking what it was supposed to</p> <p>15 do. And what it was supposed to do is meet interim</p> <p>16 charge No. 3, which is to examine the presence of fraud</p> <p>17 in Texas elections, study new laws in other states</p> <p>18 regarding voter identification, and recommend statutory</p> <p>19 changes necessary to ensure that only eligible voters</p> <p>20 can vote in Texas elections.</p> <p>21 Q. (BY MS. BERKOWER) Does anything that you just</p> <p>22 read delineate between voting in person and voting by</p> <p>23 mail invalid?</p> <p>24 A. Yes. Study new laws in other states regarding</p> <p>25 voter identification.</p>
<p style="text-align: center;">222</p> <p>1 A. The interim charge No. 3 was to examine the</p> <p>2 presence of fraud in Texas elections, study laws in</p> <p>3 other states regarding voter identification, and</p> <p>4 recommend statutory changes necessary to ensure that</p> <p>5 only eligible voters can vote in Texas elections.</p> <p>6 Q. Is that limited to in-person fraud?</p> <p>7 A. Study new laws in other states regarding voter</p> <p>8 identification and recommend statutory changes</p> <p>9 necessary to ensure that only eligible voters can vote</p> <p>10 in Texas elections.</p> <p>11 Q. Is that -- is that limited to in-person</p> <p>12 voting, though?</p> <p>13 MR. BRISSENDEN: To the extent that you</p> <p>14 know.</p> <p>15 I'm going to also insert an objection as</p> <p>16 to speculation to the extent that the witness did not</p> <p>17 prepare this document.</p> <p>18 MS. BERKOWER: Well, he served on the</p> <p>19 committee that addressed this interim charge. And I'm</p> <p>20 asking him about the language of the interim charge.</p> <p>21 MR. BRISSENDEN: To the extent that he</p> <p>22 knows.</p> <p>23 THE WITNESS: And your question -- I'm</p> <p>24 sorry, can you repeat the question, again?</p> <p>25 MS. BERKOWER: Can you read it back,</p>	<p style="text-align: center;">224</p> <p>1 Q. Does it specify that voter identification has</p> <p>2 to be required at the poles? Couldn't it also be</p> <p>3 required at the time that you request a mail-in ballot?</p> <p>4 MR. BRISSENDEN: Objection,</p> <p>5 argumentative.</p> <p>6 Q. (BY MS. BERKOWER) You may answer.</p> <p>7 MR. BRISSENDEN: I believe the witness</p> <p>8 has answered the question as you phrased it as best as</p> <p>9 he can, and the question that you have followed up with</p> <p>10 is more argumentative.</p> <p>11 Q. (BY MS. BERKOWER) Is it possible to require a</p> <p>12 voter to show identification when they request a</p> <p>13 mail-in ballot?</p> <p>14 A. I don't believe it is.</p> <p>15 Q. Why not?</p> <p>16 MR. BRISSENDEN: I'm going to instruct</p> <p>17 the witness not to divulge his opinions, his mental</p> <p>18 processes, mental thoughts, opinions, analysis and</p> <p>19 impressions about legislation, including legislation</p> <p>20 that addresses mail-in voter fraud.</p> <p>21 MS. BERKOWER: I did not tie this</p> <p>22 question to any legislation whatsoever, nor have we</p> <p>23 discussed any legislation in particular that addresses</p> <p>24 mail-in ballots. I asked a simple question of would it</p> <p>25 be possible to require proof of some sort of</p>



<p style="text-align: center;">225</p> <p>1 identification when a voter requests a mail-in ballot?</p> <p>2 MR. BRISSSENDEN: And because there was</p> <p>3 legislation, I believe, during the sessions that did</p> <p>4 pertain to mail-in voter fraud that would implicate</p> <p>5 your question as to why it would implicate his mental</p> <p>6 impressions and thought processes about legislation</p> <p>7 pertaining to mail-in voter fraud.</p> <p>8 MS. BERKOWER: So you are not letting him</p> <p>9 answer if it's possible to require a voter to submit</p> <p>10 some form of identification when you request a mail-in</p> <p>11 ballot?</p> <p>12 MR. BRISSSENDEN: That is correct.</p> <p>13 MS. BERKOWER: Well, we ask you to</p> <p>14 withdraw that objection. We think that's completely</p> <p>15 overbroad. I'm not sure exactly what legislative act</p> <p>16 you're tying that to.</p> <p>17 MR. BRISSSENDEN: I think I have explained</p> <p>18 my position in the pending legislation. I made</p> <p>19 reference to the legislation in my objection. I'm</p> <p>20 trying to work --</p> <p>21 MS. BERKOWER: You're the only one who is</p> <p>22 referring to legislation concerning mail-in ballots.</p> <p>23 MR. BRISSSENDEN: That is not correct.</p> <p>24 I've explained my position. I'm trying to work with</p> <p>25 you in going through these court orders and policing</p>	<p style="text-align: center;">227</p> <p>1 to do.</p> <p>2 Q. (BY MS. BERKOWER) Can you turn your attention</p> <p>3 to Page 918 of the House Journal.</p> <p>4 A. Yes.</p> <p>5 Q. I think that's Exhibit 443, please. Do you</p> <p>6 see Representative Anchia addresses -- I guess it's</p> <p>7 in -- well, it's in the middle of the page.</p> <p>8 A. Uh-huh.</p> <p>9 Q. He asked a question of Representative Harless:</p> <p>10 "And you're not aware of any" -- sorry.</p> <p>11 "Are you aware of any studies conducted</p> <p>12 by a state agency to project the number of voters that</p> <p>13 lacked the required identification, and what percentage</p> <p>14 of these voters are African American or Hispanic? Are</p> <p>15 you aware of any studies like that?"</p> <p>16 Do you see where he asked that?</p> <p>17 A. I do.</p> <p>18 Q. And she -- and Representative Harless replied,</p> <p>19 "I do not see that in testimony." Do you see that?</p> <p>20 A. I do.</p> <p>21 Q. Do you know who Ann McGeehan is?</p> <p>22 A. I believe she works for the Secretary of</p> <p>23 State.</p> <p>24 Q. Do you know what her position there is?</p> <p>25 A. She's involved in the election process there.</p>
<p style="text-align: center;">226</p> <p>1 the line as I understand them from the Court's orders.</p> <p>2 And you have continuously -- despite the Court's order</p> <p>3 of yesterday, continue to ask questions that delve into</p> <p>4 privilege. And I believe that is crossing the line and</p> <p>5 is more of a harassment of this witness.</p> <p>6 But we have been with you, cooperated</p> <p>7 with you today to try to provide you information that</p> <p>8 is not privileged during the deposition here today.</p> <p>9 MS. BERKOWER: For the record, I will say</p> <p>10 that we have attempted to work with you and to rephrase</p> <p>11 our questions as you see appropriate and to comply with</p> <p>12 the Court's order. And we have certainly not made any</p> <p>13 willful attempt to defy the Court's order in any</p> <p>14 regard.</p> <p>15 MR. BRISSENDER: Well --</p> <p>16 MS. BERKOWER: To the extent that we</p> <p>17 disagree about the extent of privilege, we will make</p> <p>18 our objections known.</p> <p>19 MR. BRISSSENDEN: Well, I appreciate your</p> <p>20 efforts to rephrase the questions. But not all of the</p> <p>21 questions have been rephrased and some of them have</p> <p>22 been in direct violation of the Court's order.</p> <p>23 MS. BERKOWER: And where you have</p> <p>24 asserted privilege, we have not challenged you and</p> <p>25 permitted the witness not to answer, as we're required</p>	<p style="text-align: center;">228</p> <p>1 Q. She's the former director of elections there?</p> <p>2 A. She could be.</p> <p>3 Q. Do you know if she testified before the House</p> <p>4 at all in connection with S.B. 14?</p> <p>5 A. I mean, the record would show whether she did</p> <p>6 or not. I don't recall.</p> <p>7 Q. Do you know that Ann McGeehan testified last</p> <p>8 week that in fact a match had been conducted of the</p> <p>9 voter registration and driver's license databases in</p> <p>10 February or March of 2011?</p> <p>11 MR. BRISSSENDEN: I'm going to object to</p> <p>12 the extent that the question is a mischaracterization</p> <p>13 of prior testimony or evidence.</p> <p>14 You may answer.</p> <p>15 THE WITNESS: I'm not aware of any of</p> <p>16 that.</p> <p>17 Q. (BY MS. BERKOWER) As the house bill sponsor,</p> <p>18 do you think Representative Harless would have been</p> <p>19 informed of that -- of research conducted by the</p> <p>20 Secretary of State's office concerning the bill of</p> <p>21 which she was the sponsor?</p> <p>22 MR. BRISSSENDEN: Objection. First of</p> <p>23 all, the question calls for speculation as to what</p> <p>24 Harless would have been informed of. And to the extent</p> <p>25 that that question requires you to disclose or divulge</p>





<p style="text-align: center;">229</p> <p>1 information that you have in terms of the thought</p> <p>2 processes as part of your analysis of S.B. 14, I would</p> <p>3 request that you not disclose that.</p> <p>4 Also, do not disclose communications that</p> <p>5 you have had with state agencies and with legislators,</p> <p>6 their staff or your staff, or Texas Legislative</p> <p>7 Council. To extent that you can answer the question</p> <p>8 without disclosing that, you may answer.</p> <p>9 THE WITNESS: Do you mind repeating?</p> <p>10 (The requested portion was read)</p> <p>11 MR. BRISSSENDEN: Same objection, same</p> <p>12 instruction.</p> <p>13 THE WITNESS: I would only be able to</p> <p>14 speculate.</p> <p>15 Q. (BY MS. BERKOWER) When you sponsor a bill and</p> <p>16 a state agency conducts an analysis of the bill, are</p> <p>17 you informed of that analysis?</p> <p>18 MR. BRISSSENDEN: Same objection, same</p> <p>19 instruction. Do not disclose communications that you</p> <p>20 have had with state agencies and -- including Texas</p> <p>21 Legislative Council and the Secretary of State's</p> <p>22 office.</p> <p>23 To the extent you are able to answer that</p> <p>24 question that does not pertain to communications</p> <p>25 that -- from those agencies that relate to specific</p>	<p style="text-align: center;">231</p> <p>1 debate on the floor.</p> <p>2 Q. You were present every day, though, or you</p> <p>3 were present during the debate?</p> <p>4 A. You asked if I was involved in the debate.</p> <p>5 You didn't ask if I was present. You asked if I was</p> <p>6 involved.</p> <p>7 Q. Did you offer amendments?</p> <p>8 A. I did, I think one or two. Again, it's all in</p> <p>9 the record. It will be there.</p> <p>10 I think we're at 444.</p> <p>11 (Exhibit No. 444 marked)</p> <p>12 Q. (BY MS. BERKOWER) Actually, this is such a</p> <p>13 lengthy exhibit I only --</p> <p>14 A. Sure.</p> <p>15 Q. -- have one, if you don't mind sharing.</p> <p>16 A. No problem.</p> <p>17 Q. Can you turn your attention --</p> <p>18 A. May I make a comment? I don't mean to be</p> <p>19 difficult at all. I mean, when you ask if I was</p> <p>20 involved, I take that to mean whether I am</p> <p>21 participated. Obviously I was there, so I'm not</p> <p>22 suggesting I wouldn't have been there. I take that</p> <p>23 more as a question of whether I actually was at the</p> <p>24 front of that mic making an argument.</p> <p>25 Q. Okay. Thank you for that clarification.</p>
<p style="text-align: center;">230</p> <p>1 legislation but more in terms a general procedure --</p> <p>2 MS. BERKOWER: Which is exactly what I</p> <p>3 asked.</p> <p>4 MR. BRISSSENDEN: Please let me finish.</p> <p>5 -- you may answer that question.</p> <p>6 THE WITNESS: No. There is no</p> <p>7 requirement or absolute that you would.</p> <p>8 MS. BERKOWER: I think the lengthy</p> <p>9 objection, I'm not -- I need to just -- need to restart</p> <p>10 this.</p> <p>11 Q. (BY MS. BERKOWER) As a general matter, as a</p> <p>12 general practice, if a state agency conducts an</p> <p>13 analysis of a bill of which you are the sponsor, are</p> <p>14 you generally informed of that analysis?</p> <p>15 MR. BRISSSENDEN: My same instruction.</p> <p>16 THE WITNESS: The answer is no, you would</p> <p>17 not absolutely be informed. Let me clarify. I don't</p> <p>18 believe that the Secretary of State's office conducted</p> <p>19 an analysis of the bill.</p> <p>20 Q. (BY MS. BERKOWER) Did you participate in the</p> <p>21 House floor debate on the bill?</p> <p>22 A. Sure. I'm sure I did. I think it was</p> <p>23 limited.</p> <p>24 Q. Why -- what do you mean "it was limited"?</p> <p>25 A. Well, I mean, I wasn't deeply involved in the</p>	<p style="text-align: center;">232</p> <p>1 Can you turn your attention to Page 961,</p> <p>2 please.</p> <p>3 A. Yes.</p> <p>4 Q. Do you see Amendment 7?</p> <p>5 A. Amendment No. 7, yes, ma'am.</p> <p>6 Q. Were you one of the sponsors of this</p> <p>7 amendment?</p> <p>8 A. It appears I was, yes.</p> <p>9 Q. What did this amendment do?</p> <p>10 A. Let me look. Amendment to Committee</p> <p>11 Substitute 14, Section 9 of the bill, added Section</p> <p>12 63.001(h), Election Code (page 6, lines 17-21), by</p> <p>13 striking the following: Was 70 years of age or older</p> <p>14 on January 1 of 2012 as indicated by the date of birth</p> <p>15 on the voters registration certificate; or (2)."</p> <p>16 Q. So would this provision have removed the</p> <p>17 exemption for individuals over 70 years of age from</p> <p>18 having to show one of the required forms of</p> <p>19 identification under S.B. 14?</p> <p>20 A. I believe that's correct.</p> <p>21 Q. What was the purpose of that amendment?</p> <p>22 MR. BRISSSENDEN: I'm going to instruct</p> <p>23 the witness not to close his opinions, analysis, and</p> <p>24 thoughts and mental impressions about this amendment</p> <p>25 and the legislation, and instruct him not to answer.</p>



<p style="text-align: center;">233</p> <p>1 THE WITNESS: Follow his instruction.</p> <p>2 Q. (BY MS. BERKOWER) Are you aware of any</p> <p>3 testimony on the public record expressing concerns that</p> <p>4 some elderly voters might not be able to access -- may</p> <p>5 not be able to obtain the required documentation under</p> <p>6 S.B. 14?</p> <p>7 MR. BRISSENDEN: Objection to the extent</p> <p>8 that it mischaracterizes testimony in the record.</p> <p>9 But you can answer.</p> <p>10 THE WITNESS: I'm aware of public</p> <p>11 testimony that people over 71 had to show ID.</p> <p>12 Q. (BY MS. BERKOWER) I'm sorry?</p> <p>13 A. That people over 71 had to show ID.</p> <p>14 Q. Are you aware of any testimony that expresses</p> <p>15 concerns that some minority voters over the age of 70</p> <p>16 would be unable to obtain appropriate identification</p> <p>17 due to prior discrimination?</p> <p>18 A. No.</p> <p>19 Q. Do you recall Representative Veasey raising</p> <p>20 the concern that some elderly minority voters were not</p> <p>21 born in public hospitals because they were not allowed</p> <p>22 to at the time that they were born, and so they don't</p> <p>23 have access to birth certificates the same way other</p> <p>24 voters may have?</p> <p>25 MR. BRISSENDEN: Objection to the extent</p>	<p style="text-align: center;">235</p> <p>1 Amendment 15 at Page 969.</p> <p>2 A. Yes.</p> <p>3 Q. Do you remember this amendment?</p> <p>4 A. No.</p> <p>5 Q. Would this amendment prohibit the use for the</p> <p>6 underlying documents required to vote under S.B. 14?</p> <p>7 A. It says, "Fees prohibited for certain forms of</p> <p>8 identification documentation, notwithstanding any other</p> <p>9 law and agency, institution, or political subdivision,"</p> <p>10 and so forth.</p> <p>11 Q. "May not charge any fee for the issuance of a</p> <p>12 document that may be used as proof of identification</p> <p>13 under this chapter." Is that accurate?</p> <p>14 A. That is accurate.</p> <p>15 Q. And then it also says, "or to obtain a</p> <p>16 document that may be used as proof of identification</p> <p>17 under this chapter." Is that accurate?</p> <p>18 A. That is accurate.</p> <p>19 Q. Do you know what the practical effect of that</p> <p>20 amendment would have been?</p> <p>21 MR. BRISSENDEN: I'm going to object and</p> <p>22 instruct the witness not to answer the question on the</p> <p>23 basis of privilege.</p> <p>24 Q. (BY MS. BERKOWER) Is the effect of this</p> <p>25 amendment that it would have been to prohibit fees for</p>
<p style="text-align: center;">234</p> <p>1 that the testimony mischaracterizes prior testimony in</p> <p>2 the record.</p> <p>3 You may answer.</p> <p>4 THE WITNESS: I don't remember.</p> <p>5 Q. (BY MS. BERKOWER) Turning your attention to</p> <p>6 Amendment 15 at Page 969.</p> <p>7 A. Okay.</p> <p>8 MR. BRISSENDEN: We have been going for</p> <p>9 well over an hour. Is this a good time to take a</p> <p>10 break?</p> <p>11 MS. BERKOWER: Sure.</p> <p>12 Let's go off the record, please.</p> <p>13 (Recess from 5:07 p.m. to 5:21 p.m.)</p> <p>14 Q. (BY MS. BERKOWER) Sir, just to let you know,</p> <p>15 I have some more questions to ask, but then Ms. Perales</p> <p>16 needs to return back to her family in San Antonio and</p> <p>17 so I'm going to --</p> <p>18 A. Certainly.</p> <p>19 Q. -- let her go before I finish so she can get</p> <p>20 home.</p> <p>21 A. No problem.</p> <p>22 MS. BERKOWER: Can you read me back the</p> <p>23 last question?</p> <p>24 (The requested portion was read back)</p> <p>25 Q. (BY MS. BERKOWER) Turning your attention to</p>	<p style="text-align: center;">236</p> <p>1 documentation used to vote under S.B. 14?</p> <p>2 MR. BRISSENDEN: Same instruction.</p> <p>3 Q. (BY MS. BERKOWER) Did you vote in favor of</p> <p>4 this amendment?</p> <p>5 A. I voted yes.</p> <p>6 Q. Yes to what?</p> <p>7 A. It appears I voted yes on the motion to table</p> <p>8 the amendment.</p> <p>9 Q. Is that effectively a vote against the</p> <p>10 amendment?</p> <p>11 A. It would be, yes.</p> <p>12 Q. Do you know of any concerns in the public</p> <p>13 record that the cost that would be imposed on voters to</p> <p>14 obtain identification compliant with S.B. 14 might have</p> <p>15 an adverse impact on minorities?</p> <p>16 MR. BRISSENDEN: Can you read back the</p> <p>17 question?</p> <p>18 (The requested portion was read)</p> <p>19 Q. (BY MS. BERKOWER) Do you know of any such</p> <p>20 publicly made concerns?</p> <p>21 A. Not off the top of my head, no.</p> <p>22 Q. Do you know if S.B. 14 provided for an</p> <p>23 identification free of charge to voters?</p> <p>24 A. I don't recall.</p> <p>25 MS. BERKOWER: This will be Exhibit 445.</p>



<p style="text-align: center;">237</p> <p>1 (Exhibit No. 445 skipped)</p> <p>2 MS. BERKOWER: This is the final filed</p> <p>3 version of S.B. 14. I think you had asked about this</p> <p>4 earlier.</p> <p>5 MR. BRISSENDEN: Thank you.</p> <p>6 Q. (BY MS. BERKOWER) Turning to Page 13. I</p> <p>7 should actually mark that as Exhibit 5 instead of 445.</p> <p>8 We have used it previously in other depositions. Let</p> <p>9 me just change that.</p> <p>10 A. Sure.</p> <p>11 Q. Turning to Page 13 --</p> <p>12 A. All right.</p> <p>13 Q. -- Chapter 521A, Election Identification</p> <p>14 Certificate. Do you see that?</p> <p>15 A. I do.</p> <p>16 Q. Can you review this section briefly to</p> <p>17 yourself? Well, are you familiar with this section?</p> <p>18 A. Vaguely. Go ahead.</p> <p>19 Q. Did you review this section now?</p> <p>20 A. Briefly, I have.</p> <p>21 Q. Does this section provide an identification</p> <p>22 issued by the Department of Public Safety free of</p> <p>23 charge to voters who do not have another form of</p> <p>24 identification required by S.B. 14?</p> <p>25 A. It says the department may not collect a fee</p>	<p style="text-align: center;">239</p> <p>1 identification effectively no longer be free?</p> <p>2 MR. BRISSENDEN: Objection, calls for</p> <p>3 speculation, assumes facts not in evidence.</p> <p>4 Q. (BY MS. BERKOWER) You may answer.</p> <p>5 MR. BRISSENDEN: If you know.</p> <p>6 A. It says, "The department may issue an election</p> <p>7 identification certificate to a person who states that</p> <p>8 the person is obtaining the certificate for the</p> <p>9 purposes of satisfying Section 63.001(b), Election</p> <p>10 Code, and does not have another form of identification</p> <p>11 described by Section 63.0101, Election Code, and" so</p> <p>12 forth.</p> <p>13 Q. (BY MS. BERKOWER) Okay. Directing your</p> <p>14 attention to Line 9 -- sorry, 19 of Page 14.</p> <p>15 A. Okay.</p> <p>16 Q. It says, "The department may require each</p> <p>17 applicant for an original or renewal election</p> <p>18 identification certificate to furnish to the department</p> <p>19 the information required by Section 521.142."</p> <p>20 Do you see that?</p> <p>21 A. Actually, I don't. Tell me where we are</p> <p>22 again.</p> <p>23 Q. Line 19 on Page 14.</p> <p>24 A. Okay.</p> <p>25 Q. Do you see that?</p>
<p style="text-align: center;">238</p> <p>1 for an election identification certificate or a</p> <p>2 duplicate election identification certificate issued</p> <p>3 under this section.</p> <p>4 Q. Do you know if there are certain documents</p> <p>5 required for a voter -- that a voter must present in</p> <p>6 order to obtain one of these certificates?</p> <p>7 A. I do not, no.</p> <p>8 Q. Do you know if a voter who wanted to obtain</p> <p>9 one of these certificates might have to provide</p> <p>10 documents -- official State documents?</p> <p>11 A. I do not know.</p> <p>12 Q. If a voter had to present certain documents to</p> <p>13 obtain the certificate and those documents cost money,</p> <p>14 would the identification still be free?</p> <p>15 MR. BRISSENDEN: Objection, calls for</p> <p>16 speculation and assumes facts not in evidence.</p> <p>17 Q. (BY MS. BERKOWER) You may answer.</p> <p>18 A. I believe that it's stated here, "The</p> <p>19 department may not collect a fee for an election</p> <p>20 identification certificate or the duplicate election</p> <p>21 identification certificate issued under this section."</p> <p>22 Q. But if the voter had to -- if the voter had to</p> <p>23 provide documentation -- underlying documentation to</p> <p>24 obtain the certificate, and that underlying</p> <p>25 documentation cost money, would the -- would this</p>	<p style="text-align: center;">240</p> <p>1 A. I do.</p> <p>2 Q. If the -- if the documents required by Section</p> <p>3 521.142 cost money, would this identification still be</p> <p>4 free?</p> <p>5 MR. BRISSENDEN: Same objection.</p> <p>6 THE WITNESS: Well, it says the</p> <p>7 department may require.</p> <p>8 Q. (BY MS. BERKOWER) If it does, in fact, choose</p> <p>9 to require documentation that costs money, would this</p> <p>10 identification still be free?</p> <p>11 A. I don't know if they require it or not.</p> <p>12 Q. But what if they do require it?</p> <p>13 MR. BRISSENDEN: Same objection.</p> <p>14 The witness has tried to, as best he can,</p> <p>15 answer your question.</p> <p>16 MS. BERKOWER: The witness -- the witness</p> <p>17 has provided nonresponsive answers. So I ask that he</p> <p>18 answer the question, please.</p> <p>19 MR. BRISSENDEN: I disagree. I think the</p> <p>20 question has been asked and answered, and he has tried</p> <p>21 to answer it the best he can given the information</p> <p>22 provided.</p> <p>23 MS. BERKOWER: The witness has only</p> <p>24 answered this question to the extent that the</p> <p>25 department may not, in fact, require underlying</p>



<p style="text-align: center;">241</p> <p>1 documentation that costs money. The witness has not</p> <p>2 answered my question which is if the department does in</p> <p>3 fact require underlying documentation that costs money,</p> <p>4 would this identification still be free.</p> <p>5 A. I guess only if it costs money. But even</p> <p>6 though it costs money, it doesn't mean that it costs</p> <p>7 them money to get this. They may already have that</p> <p>8 documentation.</p> <p>9 Q. (BY MS. BERKOWER) What if they don't?</p> <p>10 A. Then I guess it --</p> <p>11 MR. BRISSSENDEN: Objection, calls for</p> <p>12 speculation.</p> <p>13 THE WITNESS: Then I guess it would cost</p> <p>14 money.</p> <p>15 Q. (BY MS. BERKOWER) Okay. Turning your</p> <p>16 attention back to the House Journal. Amendment 15 that</p> <p>17 we just discussed a few minutes ago. Part two of that</p> <p>18 amendment would have prohibited a fee to obtain a</p> <p>19 document that may be used -- actually, I'll withdraw</p> <p>20 that.</p> <p>21 Turning your attention to Amendment 23, I</p> <p>22 think that's on Page 979. Do you see Amendment 23?</p> <p>23 A. I do.</p> <p>24 Q. Would Amendment 23 have allowed voters to</p> <p>25 present a student identification card containing the</p>	<p style="text-align: center;">243</p> <p>1 THE WITNESS: I wouldn't know.</p> <p>2 MS. BERKOWER: I think at this point I'm</p> <p>3 actually going to turn -- give Ms. Perales a chance to</p> <p>4 ask some questions, and then I'll return after she's</p> <p>5 finished.</p> <p style="text-align: center;">EXAMINATION</p> <p>6 BY MS. PERALES:</p> <p>7 Q. Good afternoon, Chairman Bonnen. My name is</p> <p>8 Nina Perales, and I represent the Rodriguez defendant</p> <p>9 intervenors in this lawsuit.</p> <p>10 I'm going to skip the questions that I</p> <p>11 think have already been answered and so I will not go</p> <p>12 in depth with you about 2005 or 2007 and those</p> <p>13 sessions. You have already testified you were not on</p> <p>14 the elections committee for those sessions. That's</p> <p>15 correct?</p> <p>16 A. That is correct.</p> <p>17 Q. Okay. Now, you had earlier testified that you</p> <p>18 didn't exactly remember what had happened with those</p> <p>19 bills ultimately, but I did want to ask if you recall</p> <p>20 in 2005 and 2007 that the voter ID bills originated in</p> <p>21 the House and died in the Senate.</p> <p>22 A. Respectfully, all of that is record. I don't</p> <p>23 walk around recalling things like that day in and day</p> <p>24 out. But it's a record. We can check it, and I</p> <p>25</p>
<p style="text-align: center;">242</p> <p>1 person's photograph in order to vote?</p> <p>2 A. It appears it would.</p> <p>3 Q. Did you vote in favor of the motion to table</p> <p>4 this amendment?</p> <p>5 A. It appears I did.</p> <p>6 Q. Have you ever worked as a poll worker?</p> <p>7 A. What do you mean by "a poll worker"?</p> <p>8 Q. Have you ever worked as an election judge or</p> <p>9 in any capacity at the polls on election day?</p> <p>10 A. I stood in front of a poll encouraging people</p> <p>11 to vote for myself, but I have not worked in the</p> <p>12 capacity of helping run an election.</p> <p>13 Q. I have never heard that defined as a poll</p> <p>14 worker before.</p> <p>15 A. We call it that all the time. I apologize.</p> <p>16 Q. I guess I mean inside the poll.</p> <p>17 A. No, I have not worked inside the poll.</p> <p>18 Q. How did -- do you know how many forms of</p> <p>19 identification are issued by the United States</p> <p>20 military?</p> <p>21 A. I do not.</p> <p>22 Q. Do you believe that military IDs will be</p> <p>23 easily recognized by poll workers?</p> <p>24 MR. BRISSSENDEN: Objection, calls for</p> <p>25 speculation as to poll workers.</p>	<p style="text-align: center;">244</p> <p>1 wouldn't argue with the record.</p> <p>2 Q. Is your answer, then, that sitting here today</p> <p>3 you can't recall whether the 2005 and '7 voter ID bills</p> <p>4 originated in the House and died in the Senate?</p> <p>5 A. That is correct.</p> <p>6 Q. Okay.</p> <p>7 A. But I wouldn't disagree with you if you are</p> <p>8 telling me what the facts are.</p> <p>9 Q. No, I just wanted to ask about your</p> <p>10 recollection.</p> <p>11 (Rodriguez Exhibit No. 30 marked)</p> <p>12 Q. (BY MS. PERALES) Chairman Bonnen, the court</p> <p>13 reporter has handed you what has been marked as</p> <p>14 Deposition Exhibit Rodriguez 30. Do you happen to</p> <p>15 recognize this document?</p> <p>16 THE WITNESS: I do not.</p> <p>17 Q. (BY MS. PERALES) You were on the elections</p> <p>18 committee in 2009, correct?</p> <p>19 A. That is correct.</p> <p>20 Q. Even though you don't recognize this document</p> <p>21 specifically, would it have been normal for you to have</p> <p>22 reviewed a memo sent to the members of the committee by</p> <p>23 the Secretary of State following up on some questions</p> <p>24 that came up at hearing?</p> <p>25 A. Would I have send it to my office? Certainly.</p>



<p style="text-align: center;">245</p> <p>1 Would I have reviewed it? No, there's no guarantee of</p> <p>2 that.</p> <p>3 Q. I was hoping it might refresh your</p> <p>4 recollection whether in March of 2009, as the voter ID</p> <p>5 bill is being heard, that there were some questions</p> <p>6 raised by members regarding whether some voters might</p> <p>7 lack a drivers license.</p> <p>8 A. Uh-huh.</p> <p>9 Q. And that's specifically addressed in response</p> <p>10 number 5 on Page 3.</p> <p>11 A. Go ahead.</p> <p>12 Q. No, I have a question on the table. I was</p> <p>13 waiting for your answer.</p> <p>14 A. Oh, Im sorry. What did you ask? I apologize.</p> <p>15 MS. PERALES: Can you read it back?</p> <p>16 THE WITNESS: I didn't hear your</p> <p>17 question.</p> <p>18 MS. PERALES: That's okay. It's late in</p> <p>19 the day.</p> <p>20 (The requested portion was read back)</p> <p>21 Q. (BY MS. PERALES) Do you recall concerns being</p> <p>22 raised at that time regarding voters who might lack a</p> <p>23 driver's license?</p> <p>24 MR. BRISSENDEN: To the extent that the</p> <p>25 question requires information that's not a part of the</p>	<p style="text-align: center;">247</p> <p>1 "Representative Bonnen," and then it has a colon?</p> <p>2 A. I do.</p> <p>3 Q. Would you mind just taking a look at what you</p> <p>4 said there?</p> <p>5 A. Okay.</p> <p>6 Q. And then right before that, if you wouldn't</p> <p>7 mind, at line three, reading Ms. Collins' remark, just</p> <p>8 to get some context.</p> <p>9 MR. BRISSENDEN: On the same page?</p> <p>10 MS. PERALES: Yes, Page 613.</p> <p>11 THE WITNESS: Okay.</p> <p>12 Q. (BY MS. PERALES) Now, would it be fair to say</p> <p>13 that here Ms. Collins is saying that she likes the</p> <p>14 inclusion of an option to present a valid employee</p> <p>15 identification card, and you are basically responding</p> <p>16 saying that you appreciate that because you have some</p> <p>17 familiarity with an employee ID card for the Dow</p> <p>18 company in your district. Is that right?</p> <p>19 A. I know of the significance of what security</p> <p>20 requirements a Dow employee or BASF -- not BAS -- BASF</p> <p>21 employee goes through to receive credentials.</p> <p>22 Q. I see. And do you have a Dow company plant in</p> <p>23 your district? Is that why you said this?</p> <p>24 A. Correct.</p> <p>25 Q. Okay. What is --</p>
<p style="text-align: center;">246</p> <p>1 public record, I would instruct you not to answer. To</p> <p>2 the extent you can answer the question based upon</p> <p>3 information that's of public record, you may answer.</p> <p>4 THE WITNESS: I think the statistics were</p> <p>5 requested, and that's what this has provided.</p> <p>6 Q. (BY MS. PERALES) During the public hearing on</p> <p>7 the --</p> <p>8 A. I assume that's where it was asked.</p> <p>9 Q. And do you recall that from your time on the</p> <p>10 committee, that questions were being raised or</p> <p>11 statistics were being requested regarding voters who</p> <p>12 might lack a driver's license?</p> <p>13 A. I vaguely recall that questions were asked</p> <p>14 about the numbers.</p> <p>15 MS. PERALES: I would like to mark this</p> <p>16 Rodriguez 31, please.</p> <p>17 (Rodriguez Exhibit No. 31 marked)</p> <p>18 Q. (BY MS. PERALES) Chairman Bonnen, you have</p> <p>19 been handed what has been marked Rodriguez Deposition</p> <p>20 Exhibit No. 31. You may not have ever seen a</p> <p>21 transcription of these hearings. They were done for</p> <p>22 this case. But I will represent to you that it is a</p> <p>23 transcription.</p> <p>24 If you would turn with me to Page 613.</p> <p>25 Do you see where the -- line 15 where it says,</p>	<p style="text-align: center;">248</p> <p>1 A. And a BASF plant.</p> <p>2 Q. What is BASF?</p> <p>3 A. It is a large petrochemical company.</p> <p>4 Q. So are those two different companies, then,</p> <p>5 the Dow company --</p> <p>6 A. Yes.</p> <p>7 Q. Thank you.</p> <p>8 If you could identify in your little pile</p> <p>9 there US 435, which is the S.B. 362. US 435.</p> <p>10 A. Okay. 435 is a memo or press release.</p> <p>11 MR. BRISSENDEN: Do you believe it's 434?</p> <p>12 MS. PERALES: Well, if the witness can</p> <p>13 find it, I will mark mine accordingly.</p> <p>14 Q. (BY MS. PERALES) It should say S.B. 362 in</p> <p>15 the corner.</p> <p>16 A. Here it is.</p> <p>17 Q. All right. What exhibit number do you have</p> <p>18 for that?</p> <p>19 A. 434.</p> <p>20 Q. 434. I'll go ahead and mark mine.</p> <p>21 And does it say in the upper left-hand</p> <p>22 corner, "By Fraser, Estes, Nelson, Nichols"?</p> <p>23 A. Correct.</p> <p>24 Q. All right. So we're looking at the same</p> <p>25 document.</p>





<p style="text-align: center;">249</p> <p>1 Now, I believe you testified a little bit</p> <p>2 earlier today about S.B. 362 as it came over from the</p> <p>3 Senate to the House in 2009?</p> <p>4 A. Possibly. I don't think I was very specific,</p> <p>5 but sure.</p> <p>6 Q. All right. Well, I want to try to refresh</p> <p>7 your recollection a little bit about this time when</p> <p>8 S.B. 362 or Senator Fraser's voter ID bill comes over</p> <p>9 to the House. You are on the committee, Todd Smith is</p> <p>10 the chair.</p> <p>11 A. Correct.</p> <p>12 Q. And there is -- there is some material in the</p> <p>13 public record about what was going on during this time.</p> <p>14 A. Certainly.</p> <p>15 Q. I know you had an exchange earlier with</p> <p>16 Ms. Brekower about Todd Smith's attempt to draft a</p> <p>17 compromise bill for an alternative or substitute bill,</p> <p>18 quite frankly, to 362.</p> <p>19 MR. BRISSENDEN: Objection to the</p> <p>20 extent that calls for speculation.</p> <p>21 THE WITNESS: Those all have many</p> <p>22 different meanings.</p> <p>23 Q. (BY MS. PERALES) I'll call it a committee</p> <p>24 substitute, then.</p> <p>25 A. That would be fine.</p>	<p style="text-align: center;">251</p> <p>1 when the bill was finally voted on by the Elections</p> <p>2 Committee, that it had gone back to Senator Fraser's</p> <p>3 version; that essentially Chairman Smith gave up on his</p> <p>4 committee substitute and basically had the committee</p> <p>5 vote on S.B. 362 as it came from the Senate?</p> <p>6 MR. BRISSENDEN: I'm going to object to</p> <p>7 the extent that the question mischaracterizes prior</p> <p>8 testimony.</p> <p>9 But you may answer.</p> <p>10 Q. (BY MS. PERALES) Does that sound familiar?</p> <p>11 A. Vaguely familiar. With that said, though,</p> <p>12 there would be a clear record of what the committee</p> <p>13 voted on, and if it was Senator Fraser's original bill</p> <p>14 passed by the Senate, I respectfully believe you. I</p> <p>15 wouldn't try and argue that with you.</p> <p>16 Q. And let me see if I can help further.</p> <p>17 A. And, respectfully, that bill at that time was</p> <p>18 one of the issues that was a challenge, changed</p> <p>19 frequently and often.</p> <p>20 MS. PERALES: Okay. Let's go ahead and</p> <p>21 mark this.</p> <p>22 (Rodriguez Exhibit No. 32 marked)</p> <p>23 THE WITNESS: So, respectfully, if you</p> <p>24 are telling me that the bill that was voted on by the</p> <p>25 Elections Committee, the record shows that it was</p>
<p style="text-align: center;">250</p> <p>1 Q. All right. So you recall based on your</p> <p>2 knowledge from the public record that there was an</p> <p>3 effort behind Chairman Smith to craft a committee</p> <p>4 substitute to S.B. 362, correct?</p> <p>5 A. I do recall that, correct.</p> <p>6 Q. Do you recall there was some opposition by</p> <p>7 Representatives Betty Brown and Linda Harper-Brown to</p> <p>8 Chairman Smith's committee substitute?</p> <p>9 A. I don't -- without breaking privilege, I just</p> <p>10 think that there was issues with who would get what</p> <p>11 they wanted in what bills.</p> <p>12 Q. And a lot of that was covered in the Quorum</p> <p>13 Report --</p> <p>14 A. Yeah.</p> <p>15 Q. -- so I don't want you break any privilege</p> <p>16 there.</p> <p>17 A. Not that what I know is always accurate.</p> <p>18 Q. Correct.</p> <p>19 And lastly -- and I am informed by having</p> <p>20 been in Chairman Smith's deposition last Friday --</p> <p>21 A. No, I understand.</p> <p>22 Q. -- where he did talk about some of that.</p> <p>23 A. Certainly.</p> <p>24 Q. And I want to hopefully refresh your</p> <p>25 recollection. Do you recall in the public record that</p>	<p style="text-align: center;">252</p> <p>1 Senator Fraser's bill that was passed by the Senate, I</p> <p>2 wouldn't argue with you.</p> <p>3 Q. (BY MS. PERALES) The court reporter has</p> <p>4 handed you what has been marked Rodriguez Deposition</p> <p>5 Exhibit 32.</p> <p>6 A. Okay.</p> <p>7 Q. And I'm doing this because I don't want to</p> <p>8 question you about things that seem unfamiliar.</p> <p>9 Do you recognize this as a committee</p> <p>10 report for S.B. 2362?</p> <p>11 A. It does appear to be a committee report, yes.</p> <p>12 Q. Okay. Do you see where it says "unamended" in</p> <p>13 parenthesis up on the front page?</p> <p>14 A. I do.</p> <p>15 Q. Okay. So I just want to make sure that you</p> <p>16 feel comfortable when I'm talking about this bill</p> <p>17 coming out of the House Elections Committee unamended?</p> <p>18 A. Sure.</p> <p>19 Q. Now, this is also the time when you testified</p> <p>20 previously to some correspondence with people who had</p> <p>21 written you e-mails -- third parties that had written</p> <p>22 you e-mails. And a couple of these e-mails mentioned</p> <p>23 that you had voted no in committee?</p> <p>24 A. Correct.</p> <p>25 Q. Now, is it correct to say that you voted no in</p>



<p style="text-align: center;">253</p> <p>1 committee following Representative Heflin casting his 2 vote? Do you recall that? 3 A. I do recall it. I believe you are correct, 4 but to be very correct, the record would reflect that 5 my name was called before. I passed. Chairman Smith 6 went through the rest of the committee roster. 7 Representative Heflin did vote yes. He came back to me 8 at the end when all members had voted, and I voted no. 9 Q. Okay. And I seem to recall from your e-mail 10 correspondences with third parties that you had some 11 concerns about the bill not being strong enough as 12 written? 13 A. That is correct. 14 Q. And when you were writing that in your 15 correspondence to the third parties, were you referring 16 to S.B. 362 as it had come over from the Senate, or 17 were -- were those concerns more expressed towards 18 Chairman Smith's committee substitute? 19 MR. BRISSSENDEN: I'm going to object to 20 the extent that that question delves into the thought 21 process, mental impressions, about the legislation, and 22 instruct you not to answer the question because it 23 does -- although it does relate to correspondence and 24 public communication to third parties, your thought 25 processes, mental impressions about that statement I</p>	<p style="text-align: center;">255</p> <p>1 impressions. 2 Do you understand that? 3 THE WITNESS: I do. 4 MR. BRISSSENDEN: Very good. 5 Q. (BY MS. PERALES) Okay. And so just so I can 6 be clear about this, I am not asking you about your 7 thought process, I'm not asking you about your thoughts 8 about the bill. I'm asking you a question about this 9 document. And when I say "this document," I mean US 10 437. 11 A. Correct. 12 Q. And you make a couple of references to "this 13 bill" -- 14 A. Correct. 15 Q. -- right here in the e-mail. 16 A. Uh-huh. 17 Q. There is a sentence -- second sentence. "This 18 bill is not a true voter ID bill." And so I believe it 19 is not privileged to explain what "this bill" means in 20 this correspondence. Not anything about your 21 deliberations or about your thought process. 22 MR. BRISSSENDEN: Let me get the exhibit 23 here. This may not be one that I had an extra copy of. 24 Q. The second sentence of the first real 25 paragraph.</p>
<p style="text-align: center;">254</p> <p>1 believe would be privileged and I instruct you not to 2 answer. 3 MS. BERKOWER: The privilege does not 4 apply here because if you write a statement to a third 5 party, then you can answer a question about that 6 statement. So I want to be very, very clear that what 7 I'm asking with respect to the e-mail is when you 8 express that specific concern in that e-mail. I'm not 9 asking about your deliberative process, but simply the 10 specific concern that you expressed in the e-mail, 11 whether you were referring to S.B. 362 as it came out 12 of the Senate, or whether you were referring to 13 Chairman Smith's committee substitute. 14 MR. BRISSSENDEN: And let me caution the 15 witness, and I do not believe that that is an accurate 16 representation of what the Court's order stated 17 yesterday on Page 6 where it makes reference to public 18 documents; that although they are public 19 communications, questioning a legislator about 20 communications to the extent that it would require the 21 legislator to reveal his thought processes. Subjective 22 motivations on any legislative activity with respect to 23 the law are covered by the privilege, so that based 24 upon that, that's what I am trying to follow when I'm 25 instructing the witness not to divulge mental</p>	<p style="text-align: center;">256</p> <p>1 MR. BRISSSENDEN: And just so I 2 understand, your question was what is this bill -- 3 MS. PERALES: What does "this bill" mean. 4 MR. BRISSSENDEN: -- that he's referring 5 to? That is your question? 6 MS. PERALES: Yes. 7 MR. BRISSSENDEN: You may answer. 8 THE WITNESS: Being only a few minutes 9 ago, I didn't remember whether we voted out Senator 10 Fraser's bill from the Senate or not. I don't recall. 11 Q. Okay. Let me try to help you remember by 12 referring you to the bottom of the page. There is a 13 sentence that begins there, "Chairman Smith, who will 14 be among the 20 House conferees, has made his 15 assistance clear. He is not committed to strictly 16 requiring photo IDs to vote, nor does he feel that 17 immediate effect of the mandatory voter ID is 18 necessary. He supports phasing in the changes over a 19 four-year period. 20 Now, do you recall that as being 21 associated with his committee substitute which had a 22 phase-in of four years? 23 A. I do recall that now that you mention it to 24 me, yes. 25 Q. It also had some additional funding for voter</p>



<p style="text-align: center;">257</p> <p>1 education and voter registration programs. Do you</p> <p>2 recall that?</p> <p>3 A. I think both bills did.</p> <p>4 Q. Okay. Do you -- do you recall whether</p> <p>5 Chairman Smith's committee substitute -- or proposed</p> <p>6 committee substitute included a Florida-style signature</p> <p>7 verification bypass for people without ID?</p> <p>8 MR. BRISSENDEN: Objection, vague. To</p> <p>9 the extent that you understand that question you may</p> <p>10 answer.</p> <p>11 THE WITNESS: I don't recall. In all</p> <p>12 sincerity, I mean, the problem at that time is that</p> <p>13 Chairman Smith daily was changing his bill.</p> <p>14 Q. (BY MS. PERALES) Do you recall whether daily</p> <p>15 there were public reports of different requests by</p> <p>16 either Representative Brown or Representative</p> <p>17 Harper-Brown?</p> <p>18 A. I don't believe there were. But I don't</p> <p>19 remember for certain. But I don't believe so.</p> <p>20 Q. Okay. So after we have gone over this part</p> <p>21 near the bottom and carrying over to the next page</p> <p>22 where you are talking about the four-year phase-in and</p> <p>23 some of this other stuff, does it help you recall</p> <p>24 whether in the second sentence of this e-mail when you</p> <p>25 say, "This bill is not a true voter ID bill," whether</p>	<p style="text-align: center;">259</p> <p>1 extent you can't without disclosing those</p> <p>2 communications, I would instruct you not to answer.</p> <p>3 THE WITNESS: I'm really not able to</p> <p>4 answer that.</p> <p>5 Q. You don't know whether you had his trust when</p> <p>6 he made you the chair of the select committee?</p> <p>7 MR. BRISSENDEN: Same objection.</p> <p>8 THE WITNESS: I do not. For clarity, I</p> <p>9 was not a supporter. I voted for Speaker Straus, but I</p> <p>10 was not someone who was supporting him when he became</p> <p>11 the de facto speaker. So I have never been one of the</p> <p>12 lieutenants of Speaker Straus.</p> <p>13 Q. (BY MS. PERALES) Okay. I was curious because</p> <p>14 you were the chair of the select committee.</p> <p>15 A. Sure. Well, that was also in his second</p> <p>16 tenure --</p> <p>17 Q. Yes.</p> <p>18 A. -- or term --</p> <p>19 Q. Yes.</p> <p>20 A. -- as speaker.</p> <p>21 Q. Okay. The reason I was asking you before a</p> <p>22 little bit about whether your concerns as expressed in</p> <p>23 your e-mail to a third party related to Chairman</p> <p>24 Smith's committee substitute or to 362 is I was trying</p> <p>25 to figure out where to place you in terms of the Smith,</p>
<p style="text-align: center;">258</p> <p>1 "this bill" meant Chairman Smith's committee substitute</p> <p>2 or whether it was 362?</p> <p>3 A. Being I didn't remember which one we were</p> <p>4 voting on, I would not be telling you the truth saying</p> <p>5 I'm certain of which one it was.</p> <p>6 Q. Okay. Thank you.</p> <p>7 Did you vote for Speaker Straus --</p> <p>8 A. Yes.</p> <p>9 Q. -- for Speaker?</p> <p>10 A. I did.</p> <p>11 Q. Would it be fair to say that you're one of the</p> <p>12 Straus lieutenants?</p> <p>13 A. No.</p> <p>14 Q. Would you -- do you believe you had the trust</p> <p>15 of Chairman Straus when he appointed you chair of the</p> <p>16 select committee? Not giving away any information</p> <p>17 about communication, but do you personally believe you</p> <p>18 had his trust when you were made the chair of the</p> <p>19 select committee.</p> <p>20 MR. BRISSENDEN: First of all, objection</p> <p>21 because it calls for speculation with respect to</p> <p>22 Speaker Straus. Secondly, to the extent that you</p> <p>23 can -- can you answer that question without divulging</p> <p>24 the substance of communications with other legislators,</p> <p>25 including Speaker Straus, you may answer. To the</p>	<p style="text-align: center;">260</p> <p>1 Brown, Harper-Brown continuum. I know that you had</p> <p>2 your own bill.</p> <p>3 A. Uh-huh. Which was not being dealt with.</p> <p>4 Q. Right. Which didn't come up?</p> <p>5 A. Correct.</p> <p>6 Q. So I was wondering if you could help me</p> <p>7 understand that a little bit better.</p> <p>8 MR. BRISSENDEN: Object to the extent</p> <p>9 that the question is vague.</p> <p>10 I'm not sure I understand. Do you</p> <p>11 understand the question?</p> <p>12 MS. PERALES: I think he does.</p> <p>13 THE WITNESS: Well, I understand it.</p> <p>14 But --</p> <p>15 MS. PERALES: He understands it.</p> <p>16 Q. (BY MS. PERALES) It's a form objection for</p> <p>17 the record, but you can answer.</p> <p>18 A. -- there's lots of -- there's lots of</p> <p>19 privilege involved in that answer, so I'm not able to</p> <p>20 answer it.</p> <p>21 Q. Without giving any of that, given where you</p> <p>22 were with your bill --</p> <p>23 A. I don't know how I could. With all due</p> <p>24 respect, I don't know how I could.</p> <p>25 Q. Okay. Based on a public --</p>



<p style="text-align: center;">261</p> <p>1 MR. BRISSENDER: Then I would instruct</p> <p>2 you not to answer the question.</p> <p>3 Q. (BY MS. PERALES) Okay. Based on a public</p> <p>4 record, what was said in a public record by Chairman</p> <p>5 Smith, by Betty Brown, by Linda Harper-Brown, by</p> <p>6 yourself, what was said in hearings --</p> <p>7 MR. BRISSENDER: To the extent that you</p> <p>8 cannot answer that question without divulging</p> <p>9 privileged information --</p> <p>10 THE WITNESS: It would be impossible.</p> <p>11 MR. BRISSENDER: -- I would instruct you</p> <p>12 not to answer.</p> <p>13 THE WITNESS: Yeah, it would be</p> <p>14 impossible to do it without privilege.</p> <p>15 Q. (BY MS. PERALES) Are you saying there is</p> <p>16 absolutely nothing in the public record that --</p> <p>17 A. I don't know. I don't know what was in the</p> <p>18 public record and I don't even know, what was there,</p> <p>19 whether it was accurate.</p> <p>20 Q. I see. So it's because you can't remember</p> <p>21 what might have been said publicly and what might have</p> <p>22 been said behind closed doors?</p> <p>23 A. Correct. And I can't remember what speech --</p> <p>24 I can't remember what was said publicly and I can't</p> <p>25 remember even if what was said was accurate.</p>	<p style="text-align: center;">263</p> <p>1 A. Correct.</p> <p>2 Q. -- there is a paragraph that begins, "As a</p> <p>3 member of the elections committee" --</p> <p>4 A. Yes.</p> <p>5 Q. -- "my focus remains to advance this bill to</p> <p>6 the House floor. I will not sign a commitment that</p> <p>7 threatens to kill the bill by preventing it from being</p> <p>8 voted out of committee."</p> <p>9 And I'm going to ask you -- not with</p> <p>10 respect to your deliberations or your thought process,</p> <p>11 I just want to ask you what does that mean, "I will not</p> <p>12 sign a commitment that threatens" -- and specifically</p> <p>13 "threatens to kill the bill."</p> <p>14 MR. BRISSENDER: To the extent that that</p> <p>15 question requires you to divulge your thought</p> <p>16 processes, your mental impressions, your opinions and</p> <p>17 views of the legislation, your analysis of the</p> <p>18 legislation, not just S.B. 14, but other voter ID bills</p> <p>19 as well, I would instruct you not to answer.</p> <p>20 THE WITNESS: I don't know how I could</p> <p>21 answer that without breaking privilege.</p> <p>22 Q. (BY MS. PERALES) But you have broken</p> <p>23 privilege to the extent that you wrote these words to a</p> <p>24 third party.</p> <p>25 MR. BRISSENDER: I disagree with that</p>
<p style="text-align: center;">262</p> <p>1 Q. Okay.</p> <p>2 MR. BRISSENDER: Then I instruct you not</p> <p>3 to answer the question.</p> <p>4 THE WITNESS: Correct. I'm not. Because</p> <p>5 again, the Quorum Report is not always accurate. Not</p> <p>6 to malign, it's a wonderful Quorum Report.</p> <p>7 MS. PERALES: I promise I won't rat on</p> <p>8 you to Harvey.</p> <p>9 THE WITNESS: Yeah, don't tell Harvey.</p> <p>10 Q. (BY MS. PERALES) I'm going to re-mark this</p> <p>11 because I don't know where the other one is.</p> <p>12 A. We have got it here.</p> <p>13 Q. Do you? Oh, it would be great if I could have</p> <p>14 the number.</p> <p>15 A. We do. It might be easiest to stay with the</p> <p>16 number.</p> <p>17 Q. Oh, yeah.</p> <p>18 A. 435; is that correct? Is this what you're</p> <p>19 after?</p> <p>20 Q. Yes. And it looks just the same.</p> <p>21 A. Yes, so it's 435.</p> <p>22 Q. So I would direct your attention to US 435.</p> <p>23 I'm going to ask you a question that's similar to the</p> <p>24 question that I asked you before.</p> <p>25 If you look on the very last page --</p>	<p style="text-align: center;">264</p> <p>1 analysis.</p> <p>2 Q. (BY MS. PERALES) Sure. I mean, this is</p> <p>3 something that you wrote --</p> <p>4 A. I didn't write it to a third party.</p> <p>5 Q. Okay. Who did you write it to? I am</p> <p>6 permitted to ask that because it says here,</p> <p>7 "Representative Dennis Bonnen has issued a principle</p> <p>8 statement" --</p> <p>9 A. Right --</p> <p>10 Q. -- "explaining his position" --</p> <p>11 A. I think the issue -- you're the lawyer -- to</p> <p>12 argue, but the issue on privilege goes to what I'm</p> <p>13 thinking, what I'm intending, and what have you, and I</p> <p>14 don't know how to answer that question for you without</p> <p>15 doing that.</p> <p>16 Q. I understand. So what I'm going to say in</p> <p>17 response is that when you issue a written statement to</p> <p>18 the world --</p> <p>19 A. Sure.</p> <p>20 Q. -- that says, "I will not sign a commitment</p> <p>21 that threatens to kill the bill," you have opened the</p> <p>22 door on that, that is no longer something that exists</p> <p>23 solely in your head or between you and a staff member</p> <p>24 or another member of the legislature. So with respect</p> <p>25 to those words, which you wrote and distributed</p>



<p style="text-align: center;">265</p> <p>1 publicly -- this is exactly I think where the Court is</p> <p>2 coming down on this. If you have written those words,</p> <p>3 then I can at least ask you what those words mean.</p> <p>4 MR. BRISSENDEN: I disagree -- I disagree</p> <p>5 with your analysis and representations of the Court.</p> <p>6 I'm looking at the Court's order on Page 6, and the</p> <p>7 Court has specifically stated that questioning the</p> <p>8 legislature or staff without communications that</p> <p>9 include public communications, just like you are</p> <p>10 talking about -- to the extent it would require the</p> <p>11 legislator to reveal his motivations, his thought</p> <p>12 processes about S.B. 14 and the opinions of the</p> <p>13 legislative activity with respect to the law, the Court</p> <p>14 has specifically ruled that that is covered, and I</p> <p>15 would instruct you not to answer.</p> <p>16 Q. We will take it up later. Thank you very</p> <p>17 much.</p> <p>18 A. Thank you.</p> <p>19 Q. This is from a prior deposition.</p> <p>20 MS. PERALES: Can you put a sticker on</p> <p>21 this that says Rodriguez 20.</p> <p>22 (Rodriguez Exhibit No. 20 marked)</p> <p>23 Q. (BY MS. PERALES) The court reporter has</p> <p>24 handed you what is marked Rodriguez Deposition</p> <p>25 Exhibit 20. I would ask you to turn to Page 340, if</p>	<p style="text-align: center;">267</p> <p>1 the Legal Defense Fund.</p> <p>2 A. Yes.</p> <p>3 Q. Would it be fair to say that here you are</p> <p>4 basically suggesting that there is a possible</p> <p>5 correction to students not having photo ID and that</p> <p>6 correction would be having the university issue a photo</p> <p>7 ID?</p> <p>8 A. "If there is a significant problem, I would</p> <p>9 really want to know specifics in terms of the absence</p> <p>10 of photo identification documents that are already</p> <p>11 available in most universities rather than simply</p> <p>12 presuming the problem. I would like to see some</p> <p>13 identification" -- indication, excuse me -- "I would</p> <p>14 like to see some indication that it can't be corrected</p> <p>15 simply by the university issuing a photo identification</p> <p>16 to their students."</p> <p>17 Q. So is it fair to say there that you're</p> <p>18 suggesting that whatever problem the witness might be</p> <p>19 describing could be corrected by simply having the</p> <p>20 university issue a photo ID to its students?</p> <p>21 A. Again, I would say I would like to see some</p> <p>22 indication that it can't be corrected simply by a</p> <p>23 university issuing a photo identification to their</p> <p>24 students.</p> <p>25 Q. Do you remember in 2009 whether any member of</p>
<p style="text-align: center;">266</p> <p>1 you would, please.</p> <p>2 A. Sorry. Could you say the number again?</p> <p>3 Q. 340.</p> <p>4 A. Okay.</p> <p>5 Q. Okay. Now, it says Q and A here.</p> <p>6 A. Okay.</p> <p>7 Q. So I need you to go back to Page 337.</p> <p>8 A. Okay.</p> <p>9 Q. And you'll see on Page 337 --</p> <p>10 A. Yes.</p> <p>11 Q. -- on Line 17, it will say Question -- it</p> <p>12 says, "Question by Representative Bonnen." Do you see</p> <p>13 that?</p> <p>14 A. Yes.</p> <p>15 Q. Then what follows is basically an exchange</p> <p>16 back and forth between you and the witness.</p> <p>17 A. Okay.</p> <p>18 Q. So then if you wouldn't mind reading your</p> <p>19 statement on Page 340 now, beginning with Line 11, just</p> <p>20 to refresh your recollection.</p> <p>21 MR. BRISSENDEN: I can't tell from</p> <p>22 reading the document what he is speaking to.</p> <p>23 Q. (BY MS. PERALES) Oh, I'm sure you can if you</p> <p>24 read back. I have a portion that goes back a little</p> <p>25 bit farther. If it helps, this is Jenigh Garrett from</p>	<p style="text-align: center;">268</p> <p>1 the House offered a hard photo ID bill?</p> <p>2 A. I do not remember.</p> <p>3 Q. Okay. And when I say "a hard photo ID," I'm</p> <p>4 using a shorthand that's come up that it would be a</p> <p>5 bill that would require -- whatever form of voter ID</p> <p>6 that would be offered had to have a photo on it.</p> <p>7 A. Right.</p> <p>8 Q. Okay. I would like to move with you to 2001.</p> <p>9 You see how fast we're going through time. The years</p> <p>10 are spinning by.</p> <p>11 In 2011 you become -- you're named the</p> <p>12 chair of the select committee, correct?</p> <p>13 A. Correct.</p> <p>14 Q. Did you file a shell bill for voter ID?</p> <p>15 A. No.</p> <p>16 Q. Are you familiar with any other house</p> <p>17 committees that only considered one bill?</p> <p>18 MR. BRISSENDEN: Objection, asked and</p> <p>19 answered.</p> <p>20 Q. (BY MS. PERALES) Was that asked?</p> <p>21 A. She asked it this morning.</p> <p>22 Q. Okay. Did she ask you?</p> <p>23 A. Yes.</p> <p>24 Q. Did the select committee on voter fraud and</p> <p>25 voter identification exist in past legislatures -- past</p>





<p style="text-align: center;">269</p> <p>1 sessions of the legislature?</p> <p>2 A. I believe the record will reflect whether it</p> <p>3 did or didn't. I don't believe the committee</p> <p>4 specifically did, no.</p> <p>5 (Rodriguez Exhibit No. 33 marked)</p> <p>6 Q. (BY MS. PERALES) I want to give you a minute</p> <p>7 to take a look at the document which has been handed to</p> <p>8 you and marked Rodriguez Deposition Exhibit 33.</p> <p>9 A. Sure.</p> <p>10 Q. Do you recognize this as a House Research</p> <p>11 Organization bill analysis for S.B. 14?</p> <p>12 A. Sure.</p> <p>13 Q. If you wouldn't mind coming with me to --</p> <p>14 where is it? Okay. Last page on the section that</p> <p>15 says, "Notes." Do you see it there? The last page --</p> <p>16 A. Sure.</p> <p>17 Q. -- Page 11 --</p> <p>18 A. Okay.</p> <p>19 Q. -- the section entitled "Notes."</p> <p>20 Do you see where it says, "During floor</p> <p>21 consideration of S.B. 13 on March 21st the bill was</p> <p>22 resubmitted to committee on a point of order"?</p> <p>23 A. Correct.</p> <p>24 Q. Do you remember what that point of order was?</p> <p>25 MR. BRISSSENDEN: Sorry, what page?</p>	<p style="text-align: center;">271</p> <p>1 A. Well, we would have -- right. My point is it</p> <p>2 was not -- it did not get to the floor at that point.</p> <p>3 And we could -- we could find out, but it was -- I</p> <p>4 don't remember specifically what the issue was. I do</p> <p>5 remember that it was debatable if it was an issue. And</p> <p>6 it was an extraordinary abundance of caution with which</p> <p>7 it was returned.</p> <p>8 Q. So the issue came up in calendars and the bill</p> <p>9 returned to the committee for a small fix?</p> <p>10 A. Correct.</p> <p>11 Q. Do you recall --</p> <p>12 A. To the committee report.</p> <p>13 Q. To the committee report?</p> <p>14 A. Correct.</p> <p>15 Q. And do you recall how long it took from the</p> <p>16 time the bill went from calendars back into committee?</p> <p>17 A. I do not at all, but I assume the record would</p> <p>18 indicate that.</p> <p>19 Q. Okay.</p> <p>20 (Rodriguez Exhibit No. 34 marked)</p> <p>21 Q. (BY MS. PERALES) The court reporter has</p> <p>22 handed you what has been marked Rodriguez Exhibit</p> <p>23 No. 34. Do you recognize this as a page from the House</p> <p>24 Journal from April 8, 2011?</p> <p>25 A. It appears to be.</p>
<p style="text-align: center;">270</p> <p>1 MS. PERALES: The last page, Page 11.</p> <p>2 THE WITNESS: No, I do not.</p> <p>3 Q. (BY MS. PERALES) Do you remember how long it</p> <p>4 took to get the bill back out on the House floor?</p> <p>5 A. Well, I don't think it ever got to the House</p> <p>6 floor.</p> <p>7 Q. This is S.B. 14.</p> <p>8 A. Correct. Are you talking about in-house</p> <p>9 deliberations?</p> <p>10 Q. House deliberations.</p> <p>11 A. Right. I don't -- one, I don't think this is</p> <p>12 accurately presented.</p> <p>13 Q. Really?</p> <p>14 A. I think it would have been the committee</p> <p>15 substitute to Senate Bill 14, if it's on the house</p> <p>16 side. And I also think -- and also, the bill never</p> <p>17 went to the floor. And it was not -- it did not go to</p> <p>18 the floor and then get recommitted from there. The</p> <p>19 bill had been voted out of committee, was in calendars,</p> <p>20 and then was sent back to the committee for correction</p> <p>21 to the committee report. And then -- so it was not</p> <p>22 taken up on the floor at all.</p> <p>23 Q. So -- that was the first time, you mean?</p> <p>24 Because eventually it had to have been taken up on the</p> <p>25 floor in the past.</p>	<p style="text-align: center;">272</p> <p>1 Q. Okay. The question is, is it correct to say</p> <p>2 that you were appointed to the conference committee for</p> <p>3 S.B. 14?</p> <p>4 A. It appears I was.</p> <p>5 Q. Do you remember serving on the conference</p> <p>6 committee for S.B. 14?</p> <p>7 A. Vaguely, yes.</p> <p>8 MS. PERALES: Mark this, please.</p> <p>9 (Rodriguez Exhibit No. 35 marked)</p> <p>10 Q. (BY MS. PERALES) The court reporter has</p> <p>11 handed you what has been marked as Rodriguez</p> <p>12 Exhibit 35.</p> <p>13 A. Correct.</p> <p>14 (Discussion off the record)</p> <p>15 Q. (BY MS. PERALES) Now, I'm going to ask you</p> <p>16 one or two questions.</p> <p>17 A. Sure.</p> <p>18 Q. And I -- you have the conference report to</p> <p>19 refresh your recollection --</p> <p>20 A. Absolutely.</p> <p>21 Q. -- about things that happened in conference.</p> <p>22 Do you recall in conference that a</p> <p>23 provision was added that DPS would issue a voter</p> <p>24 certificate.</p> <p>25 A. Vaguely.</p>



<p style="text-align: center;">273</p> <p>1 Q. Do you recall --</p> <p>2 A. And respectfully, you have to remember that</p> <p>3 conference committees don't normally actually even</p> <p>4 meet. And we didn't meet, that I'm aware of.</p> <p>5 Q. Did you have a chance to review this</p> <p>6 conference report, Rodriguez 35?</p> <p>7 A. Absolutely, no. I'm just saying that unlike</p> <p>8 other situations, we don't sit.</p> <p>9 Q. You don't sit in a big hearing room?</p> <p>10 A. Correct. Occasionally we do, but usually not.</p> <p>11 Q. Do you ever recall meeting together as a group</p> <p>12 in a conference committee for S.B. 14?</p> <p>13 A. I do not.</p> <p>14 Q. I wanted to ask you, because it seems to me</p> <p>15 one of things that happened in conference was that the</p> <p>16 bill had said DPS to issue free driver's licenses.</p> <p>17 A. Correct.</p> <p>18 Q. One of the changes I noticed today, in</p> <p>19 conference the provision was changed a little bit to</p> <p>20 say DPS would issue free voter certificates.</p> <p>21 A. That's correct.</p> <p>22 Q. Do you recall that change?</p> <p>23 A. I do.</p> <p>24 Q. Okay. Now I'm going to ask you about another</p> <p>25 change. Oh, here it is. I'm going to ask you about</p>	<p style="text-align: center;">275</p> <p>1 can answer that question without divulging or</p> <p>2 disclosing mental impressions, mental thought processes</p> <p>3 about specific legislation, in particular, S.B. 14, you</p> <p>4 may answer. To the extent you cannot without</p> <p>5 divulging, then I would instruct you not to answer.</p> <p>6 THE WITNESS: You know, it's a -- I don't</p> <p>7 know if it's explained in our rules or not. Going</p> <p>8 outside of the bounds, as I understand it, is when you</p> <p>9 have a conference committee report and the exact</p> <p>10 language was not exactly stated in the House or Senate</p> <p>11 passed versions. And even if the change is slight or</p> <p>12 significant you are required to clarify -- state that</p> <p>13 you are going outside of the bounds of the House passed</p> <p>14 or the Senate passed version.</p> <p>15 Q. Do you know whether the conference report for</p> <p>16 S.B. 14 states that it is going outside the bounds of</p> <p>17 the House and Senate versions with respect to the</p> <p>18 issuance of the voter certificate?</p> <p>19 A. I'm sure it states it or it doesn't. I don't</p> <p>20 know. I mean, I'm sure it's in the record.</p> <p>21 Q. Do you recall from your time on the -- as</p> <p>22 chair of the committee whether the conference report</p> <p>23 stated that it was going out of bounds?</p> <p>24 A. Well, let me clarify. Being chair of the</p> <p>25 committee has no significance to being -- to a</p>
<p style="text-align: center;">274</p> <p>1 this.</p> <p>2 Do you recall concerns being raised on</p> <p>3 the House floor with respect to this issue of free</p> <p>4 driver's license versus free voter certificate, that it</p> <p>5 was possible that -- that the legislature couldn't</p> <p>6 authorize DPS to give out free driver's licenses?</p> <p>7 MR. BRISSENDEN: Objection, vague.</p> <p>8 Q. (BY MS. PERALES) You may answer. That's a</p> <p>9 form objection.</p> <p>10 A. Vaguely.</p> <p>11 Q. So you have some recollection that that</p> <p>12 concern might have been raised?</p> <p>13 A. I know it was discussed. I don't recall the</p> <p>14 detail.</p> <p>15 Q. Okay. Can you help me understand this phrase,</p> <p>16 "going outside the bounds"?</p> <p>17 MR. BRISSENDEN: Are you referring to a</p> <p>18 document?</p> <p>19 MS. PERALES: No.</p> <p>20 THE WITNESS: She's referring to a</p> <p>21 legislative term.</p> <p>22 Q. (BY MS. PERALES) All right. So you have</p> <p>23 identified it as a legislative term. Can you explain</p> <p>24 what it means?</p> <p>25 MR. BRISSENDEN: To the extent that you</p>	<p style="text-align: center;">276</p> <p>1 conference committee. Because the chair of the</p> <p>2 conference committee is Representative Harless, and the</p> <p>3 senate chair is Senator Fraser. So my chair in the</p> <p>4 committee has no standing or significance in regard to</p> <p>5 the conference committee.</p> <p>6 Q. I understand. But you were the chair of a</p> <p>7 committee that worked on one bill and got one bill</p> <p>8 through the house and through the Senate, which was the</p> <p>9 first time. I mean, this is historic, your moving a</p> <p>10 voter ID bill through both houses.</p> <p>11 MR. BRISSENDEN: Objection,</p> <p>12 argumentative.</p> <p>13 THE WITNESS: Well, there is --</p> <p>14 MR. BRISSENDER: There is no question</p> <p>15 pending.</p> <p>16 THE WITNESS: Yeah.</p> <p>17 Q. (BY MS. PERALES) So my question is, given</p> <p>18 that you had such a high-profile position on the select</p> <p>19 committee and now you're on the conference committee,</p> <p>20 whether you can recall, in light of that context,</p> <p>21 whether the conference committee report stated that it</p> <p>22 was going out of bounds on the voter certificate</p> <p>23 language?</p> <p>24 MR. BRISSENDEN: Same objection and same</p> <p>25 instruction as before.</p>



<p style="text-align: center;">277</p> <p>1 THE WITNESS: It may have. Again, I'm</p> <p>2 looking at the report now and I'll have an answer when</p> <p>3 I find it.</p> <p>4 Q. (BY MS. PERALES) Do you -- in the meantime,</p> <p>5 do you have any recollection -- you mentioned that you</p> <p>6 thought there was some vague discussion -- you have a</p> <p>7 vague recollection of some discussion in the House</p> <p>8 about a potential problem with bill language requiring</p> <p>9 DPS to give out free driver's licenses. Do you recall</p> <p>10 anything in the public record about those same issues</p> <p>11 being raised on the Senate side?</p> <p>12 A. I do not at all.</p> <p>13 Q. Do you want some more time to take a look at</p> <p>14 the conference report or do you want to me -- do you</p> <p>15 want to answer the question whether you recollect?</p> <p>16 A. Well, I guess the answer would be I don't have</p> <p>17 a clear recollection of whether we went outside the</p> <p>18 bounds or not. But, respectfully, the record will tell</p> <p>19 us that and I don't see any point to guess.</p> <p>20 Q. Okay. Well, I can move on, then, if it's all</p> <p>21 right with you.</p> <p>22 A. That's fine. Sure.</p> <p>23 Q. Take a look at the part of the conference</p> <p>24 committee report that looks like a chart.</p> <p>25 A. That's a lot of --</p>	<p style="text-align: center;">279</p> <p>1 statewide effort to include education targeted at</p> <p>2 low-income and minority voters."</p> <p>3 Do you see that sentence there?</p> <p>4 A. I do.</p> <p>5 Q. Would it be correct to say that in the</p> <p>6 conference version of the bill, the language was kept</p> <p>7 from the Senate version without a provision involving</p> <p>8 low-income and minority special targeted education?</p> <p>9 MR. BRISSENDEN: To the extent you can</p> <p>10 answer that based upon information in the public</p> <p>11 record, you can answer.</p> <p>12 THE WITNESS: Could you restate the</p> <p>13 question?</p> <p>14 Q. (BY MS. PERALES) Uh-huh. Would it be fair to</p> <p>15 say, then -- well, I can say it shorthand, but then</p> <p>16 Reynolds is going to object.</p> <p>17 A. That's okay.</p> <p>18 Q. Would it be fair to say that the minority --</p> <p>19 the education targeted low-income and minority voters</p> <p>20 that was in the House version of the bill was stripped</p> <p>21 out in the conference committee?</p> <p>22 MR. BRISSENDEN: My instruction to you</p> <p>23 would be the same.</p> <p>24 THE WITNESS: What it says is that, among</p> <p>25 other provisions, requires the Secretary of State to</p>
<p style="text-align: center;">278</p> <p>1 Q. It should be near the -- these are Pages 1 and</p> <p>2 2 --</p> <p>3 A. Okay.</p> <p>4 Q. -- following the bill language attachment.</p> <p>5 A. Sure.</p> <p>6 Q. And I'm going to hold it up so you can take a</p> <p>7 look, Pages 1 and 2.</p> <p>8 A. Yes, I have it. Thank you.</p> <p>9 Q. You're welcome.</p> <p>10 Near the bottom of Page 1 and flowing</p> <p>11 onto Page 2 --</p> <p>12 A. Yes.</p> <p>13 Q. -- there's a discussion about Section 5 in the</p> <p>14 Senate version, Section 5 in the House version, and</p> <p>15 then Section 5 in the conference version. And I</p> <p>16 believe one is meant to read it from left to right --</p> <p>17 A. That's correct.</p> <p>18 Q. -- to compare the versions. Yes?</p> <p>19 A. It's Senate version, House version, and then</p> <p>20 conference version.</p> <p>21 Q. Okay. Now, if you would look with me on the</p> <p>22 House version of Section 5 where it says,</p> <p>23 "Substantially the same as Senate version --</p> <p>24 Uh-huh.</p> <p>25 Q. -- "except requires the Secretary of State</p>	<p style="text-align: center;">280</p> <p>1 conduct the statewide efforts to educate voters</p> <p>2 regarding the identification requirements for voting.</p> <p>3 That is the Senate version.</p> <p>4 Q. (BY MS. PERALES) Okay. And do you see in the</p> <p>5 House version where it says requires --</p> <p>6 A. Targeted.</p> <p>7 Q. -- targeted -- well, education targeted at</p> <p>8 low-income and minority voters?</p> <p>9 A. I do see that.</p> <p>10 Q. All right. Is it fair to say that that</p> <p>11 specific provision, targeting education to low-income</p> <p>12 and minority voters, was stripped out in conference?</p> <p>13 MR. BRISSENDEN: My instruction to you</p> <p>14 would be the same. To the extent it is part of the</p> <p>15 public record, you can disclose it. To the extent the</p> <p>16 question requires you to disclose information that is</p> <p>17 not part of the public record, I instruct you not to</p> <p>18 answer.</p> <p>19 THE WITNESS: I think more appropriately</p> <p>20 I would say that the Senate version was used, which has</p> <p>21 a broader statewide effort to educate voters regarding</p> <p>22 identification and requirements of voting.</p> <p>23 Q. (BY MS. PERALES) But isn't it true that the</p> <p>24 House version makes reference to the Secretary of</p> <p>25 State's statewide effort?</p>



<p style="text-align: center;">281</p> <p>1 A. It does.</p> <p>2 Q. And then says that specifically it needs to</p> <p>3 include education targeted at low-income and minority</p> <p>4 voters?</p> <p>5 MR. BRISSENDEN: Objection to the extent</p> <p>6 the question mischaracterizes the statement. I believe</p> <p>7 you said needs to. I don't believe I see that language</p> <p>8 in the --</p> <p>9 MS. PERALES: Okay. I'll rephrase.</p> <p>10 MR. BRISSENDER: -- House version.</p> <p>11 Q. (BY MS. PERALES) Do you see over in the House</p> <p>12 version that the Section 5 is substantially the same as</p> <p>13 the Senate version except that it requires the</p> <p>14 statewide effort to include education targeted at</p> <p>15 low-income and minority voters?</p> <p>16 MR. BRISSENDEN: Objection, vague.</p> <p>17 Q. (BY MS. PERALES) You may answer.</p> <p>18 A. The assumption is that the Senate version</p> <p>19 would not have them target at low-income and minority</p> <p>20 voters, and I don't agree that that assumption is</p> <p>21 correct.</p> <p>22 Q. No, I'm not making any assumptions. I just</p> <p>23 want an answer to the question.</p> <p>24 A. Well, the answer is that it says, "Same as</p> <p>25 Senate version except incorporates effective date same</p>	<p style="text-align: center;">283</p> <p>1 A. Correct.</p> <p>2 Q. -- "low-income and minority voters" is not in</p> <p>3 the conference version, is it?</p> <p>4 A. That's -- those specific words are not, but it</p> <p>5 doesn't infer that that does not occur.</p> <p>6 Q. I understand. But the language is not in the</p> <p>7 conference version?</p> <p>8 A. Targeted at low-income and minority voters, I</p> <p>9 assume it's not, but I'm not certain of that.</p> <p>10 Q. All right. And the language was in the House</p> <p>11 version as passed by the House?</p> <p>12 A. It apparently was, yes.</p> <p>13 Q. Okay. Thank you. Do you recall that when</p> <p>14 S.B. 14 came over to the House, it contained an</p> <p>15 exemption for persons over age 70 so that they might</p> <p>16 present a voters certificate as acceptable ID for</p> <p>17 voting?</p> <p>18 A. I believe we talked about this.</p> <p>19 Q. Okay. And that exception was not included in</p> <p>20 the version that was passed by the House, correct?</p> <p>21 A. I believe we discussed that, yes.</p> <p>22 Q. And I wanted to ask you, putting aside your</p> <p>23 thought process and your deliberations, just as a</p> <p>24 separate stand-alone matter, how -- what is the</p> <p>25 connection between voter fraud and persons over 70</p>
<p style="text-align: center;">282</p> <p>1 as House version."</p> <p>2 Q. That's right. So it takes the effective date</p> <p>3 from the House version?</p> <p>4 A. Correct.</p> <p>5 Q. And then it takes Section 5 from the Senate</p> <p>6 version?</p> <p>7 A. Correct.</p> <p>8 Q. All right.</p> <p>9 A. Which requires a statewide education effort.</p> <p>10 Q. Right. So I'll say my question, which is a</p> <p>11 yes or no question.</p> <p>12 Is it fair to say that the specific</p> <p>13 provision that says, "include education targeted at</p> <p>14 low-income and minority voters" was taken out in</p> <p>15 conference committee?</p> <p>16 MR. BRISSENDEN: My instruction would be</p> <p>17 to the extent that is matters of public record, you may</p> <p>18 answer. To the extent that it is not part of the</p> <p>19 public report and requires you to divulge thoughts,</p> <p>20 opinions, analysis and deliberations with regards to</p> <p>21 the conference, I would instruct you not to answer.</p> <p>22 THE WITNESS: I don't agree with that</p> <p>23 statement. I think it's semantics as to language.</p> <p>24 Q. (BY MS. PERALES) Okay. But the language that</p> <p>25 says "targeted at" --</p>	<p style="text-align: center;">284</p> <p>1 presenting a voter certificate?</p> <p>2 MR. BRISSENDEN: That question, I</p> <p>3 believe, would require the witness to divulge his</p> <p>4 thought processes, communications, his deliberations,</p> <p>5 his views about the purpose of that particular</p> <p>6 exemption, and I would instruct the witness not to</p> <p>7 answer the question.</p> <p>8 THE WITNESS: I don't know how to answer</p> <p>9 that without breaking privilege.</p> <p>10 Q. (BY MS. PERALES) Okay. Do you recall whether</p> <p>11 there was a vote by the House, a record vote, on</p> <p>12 removing the exemption for persons over age 70?</p> <p>13 A. Yeah. We discussed it earlier. We went over</p> <p>14 that amendment.</p> <p>15 Q. Do you recall whether there was a record vote</p> <p>16 on that?</p> <p>17 A. I believe there was. I believe we discussed</p> <p>18 it earlier in the deposition.</p> <p>19 Q. Is it possible that it was -- that the change</p> <p>20 was made at the agreement of the sponsor of the bill</p> <p>21 and there was no record vote on the exemption?</p> <p>22 MR. BRISSENDEN: I'm going to instruct</p> <p>23 you, to the extent you can answer that question as a</p> <p>24 matter of public record, you may do so. To the extent</p> <p>25 that it requires you to divulge communications from</p>



<p style="text-align: center;">285</p> <p>1 legislators, I instruct you not to answer.</p> <p>2 Q. (BY MS. PERALES) And I'm only asking about</p> <p>3 the public record here. I'm not asking about --</p> <p>4 A. No, no, I understand.</p> <p>5 MS. PERALES: And the representative</p> <p>6 knows that there is a process on the House floor.</p> <p>7 THE WITNESS: No, no, I know that.</p> <p>8 MS. PERALES: -- regarding making</p> <p>9 changes.</p> <p>10 THE WITNESS: My point is I know we</p> <p>11 discussed it earlier.</p> <p>12 Q. (BY MS. PERALES) I'm just trying to fix it.</p> <p>13 A. I can't remember whether there was a vote or</p> <p>14 not. I can't believe there wouldn't have been. Wasn't</p> <p>15 there -- didn't we talk about that? There was a vote.</p> <p>16 Q. There was a vote?</p> <p>17 A. Correct.</p> <p>18 Q. Okay. And did you -- how did you vote on</p> <p>19 that?</p> <p>20 A. Being it was my amendment, I voted for it.</p> <p>21 Q. Oh, okay.</p> <p>22 MS. PERALES: Let's go ahead and mark</p> <p>23 this.</p> <p>24 (Rodriguez Exhibit No. 36 marked)</p> <p>25 THE WITNESS: Let me clarify my earlier</p>	<p style="text-align: center;">287</p> <p>1 to Page 70.</p> <p>2 A. Okay.</p> <p>3 Q. Go ahead and look at Page 70, Lines 11 and 12,</p> <p>4 which is still you speaking.</p> <p>5 A. Yes.</p> <p>6 Q. I'll move past the part about how your mom</p> <p>7 married a younger man, when you told the whole world</p> <p>8 about it there on the floor.</p> <p>9 A. Certainly.</p> <p>10 Q. And is it correct there that you say, "So</p> <p>11 there's no need to set a line of age that says beyond</p> <p>12 that age you don't need an ID to go cast a ballot"?</p> <p>13 A. That's correct, leaving out previous</p> <p>14 statements.</p> <p>15 Q. Yes. I figured that was just kind of the sum</p> <p>16 of what you were saying there.</p> <p>17 A. Possibly.</p> <p>18 Q. Is it fair to say, then, based on this</p> <p>19 statement, that you are saying there were other</p> <p>20 provisions in the bill that you thought were sufficient</p> <p>21 to protect older voters?</p> <p>22 MR. BRISSENDEN: I'm going to instruct</p> <p>23 the witness that the question requires -- to the extent</p> <p>24 requires you to divulge your opinions, your thought</p> <p>25 processes, your analysis, mental impressions about the</p>
<p style="text-align: center;">286</p> <p>1 statement. When I say I voted for it, I don't</p> <p>2 recall -- I didn't look closely if there was a motion</p> <p>3 to table, which in turn I may have voted against a</p> <p>4 motion to table, which obviously would have been</p> <p>5 considered a vote in favor of the amendment. So I</p> <p>6 don't recall specifically whether it was a motion to</p> <p>7 table or an up and down vote.</p> <p>8 Q. (BY MS. PERALES) Is it possible that an</p> <p>9 amendment can survive a motion to table and then never</p> <p>10 experience a record vote because --</p> <p>11 A. Absolutely.</p> <p>12 Q. -- because the author agrees?</p> <p>13 A. Yes. But legislatively speaking, the motion</p> <p>14 to table is considered a record vote.</p> <p>15 Q. Got it.</p> <p>16 A. Many a campaigns have been run where it's been</p> <p>17 hard to dodge that.</p> <p>18 Q. Okay. And you mentioned that your vote was in</p> <p>19 support of the amendment?</p> <p>20 A. Correct, absolutely.</p> <p>21 Q. Go ahead and take a look at Rodriguez --</p> <p>22 A. 36.</p> <p>23 Q. -- 36 for me on Page 69, going over to 70.</p> <p>24 And that's just to give you some -- some context. You</p> <p>25 begin speaking on 69 at Page 16, and then it flows over</p>	<p style="text-align: center;">288</p> <p>1 legislation of that particular provision of S.B. 14, I</p> <p>2 would instruct you not to answer the question.</p> <p>3 Q. (BY MS. PERALES) I'm just asking for the</p> <p>4 summary of your statement here.</p> <p>5 A. We have other provisions in this bill that</p> <p>6 provided exemptions to individuals that may be in their</p> <p>7 later years, that are indigent, may be handicapped with</p> <p>8 disabilities, that could allow them to be precluded</p> <p>9 from using an ID.</p> <p>10 Q. All right. Let me step back a little bit from</p> <p>11 S.B. 14.</p> <p>12 During 2009 and 2011, did you receive</p> <p>13 communications from constituents or third parties</p> <p>14 expressing concerns about noncitizen voter fraud?</p> <p>15 MR. BRISSENDEN: Can you clarify when you</p> <p>16 say "third parties"?</p> <p>17 Q. (BY MS. PERALES) People who are not in the</p> <p>18 legislature, people to whom privilege does not apply.</p> <p>19 These are just people out there in the world, whether</p> <p>20 they live in your district or don't.</p> <p>21 A. I'm sure I did. I don't know. I mean, I</p> <p>22 shouldn't say I'm sure I did. The record would either</p> <p>23 reflect that or not. I mean, you would have those</p> <p>24 documents.</p> <p>25 Q. Well, we don't have all of the communications</p>





<p style="text-align: center;">289</p> <p>1 because you mentioned that some of the e-mails</p> <p>2 regularly dealt with. And so I'm hoping you'll be able</p> <p>3 to search your memory and tell me whether in 2009 and</p> <p>4 2011 you received nonprivileged communications from</p> <p>5 either constituents or interest groups or others</p> <p>6 expressing concern about noncitizen election fraud.</p> <p>7 A. Actually, I don't believe I did.</p> <p>8 Q. You don't remember anybody coming to you --</p> <p>9 A. I remember saying I don't think anyone did.</p> <p>10 Q. Okay. So you remember, and nobody came to you</p> <p>11 with those concerns?</p> <p>12 A. I believe that's correct.</p> <p>13 Q. If somebody did try to express that concern to</p> <p>14 you in writing, where would those communications be</p> <p>15 today?</p> <p>16 A. I don't understand.</p> <p>17 Q. Would they be in your files, would they have</p> <p>18 been in your e-mail, would they have been produced</p> <p>19 today?</p> <p>20 A. They would have been produced.</p> <p>21 Q. Okay. Do you remember people expressing those</p> <p>22 concerns earlier than 2009 --</p> <p>23 A. I can't remember --</p> <p>24 Q. -- let's say 2007.</p> <p>25 A. I don't recall dinner last night, so I don't</p>	<p style="text-align: center;">291</p> <p>1 A. Well, I wish I could say that the</p> <p>2 correspondence on 6/18 of 2007 from Mr. Murphy, who has</p> <p>3 a rather extreme view, is etched in my brain, but it's</p> <p>4 not.</p> <p>5 MS. PERALES: Let's go ahead and mark</p> <p>6 this.</p> <p>7 (Rodriguez Exhibit No. 38 marked)</p> <p>8 Q. (BY MS. PERALES) The court reporter has</p> <p>9 handed you what has been marked Rodriguez Deposition</p> <p>10 Exhibit 38. Do you recognize this as a letter from you</p> <p>11 back to Mr. Murphy?</p> <p>12 A. It appears to be, yes.</p> <p>13 Q. Okay. It's also from 2007, isn't it?</p> <p>14 A. It appears to be, yes.</p> <p>15 Q. Now, in the first paragraph, is it true that</p> <p>16 you're talking to him about H.B. 218 and H.B. 626?</p> <p>17 A. It does.</p> <p>18 Q. Okay. And you describe H.B. 626 as requiring</p> <p>19 a voter applicant to prove US citizenship?</p> <p>20 A. It does.</p> <p>21 Q. And in the next paragraph, is it true here</p> <p>22 where you say, "I am just as frustrated as you are at</p> <p>23 the outcome of these bills," that you're expressing</p> <p>24 frustration that these two bills didn't make it through</p> <p>25 the legislature.</p>
<p style="text-align: center;">290</p> <p>1 know.</p> <p>2 MS. PERALES: Go ahead and mark this,</p> <p>3 please.</p> <p>4 (Rodriguez Exhibit No. 37 marked)</p> <p>5 Q. (BY MS. PERALES) Representative Bonnen, you</p> <p>6 have been handed what has been marked Rodriguez</p> <p>7 Exhibit 37. Do you recognize this as correspondence to</p> <p>8 your office?</p> <p>9 A. I do.</p> <p>10 Q. Okay. Can you take a look at that line where</p> <p>11 the writer says -- it's not in the first paragraph --</p> <p>12 well, in the first paragraph, do you see where it says,</p> <p>13 "I feel cheated as an American and Texan that our Texas</p> <p>14 Congress couldn't get voter ID passed"?</p> <p>15 A. I see that.</p> <p>16 Q. Do you see in the next paragraph where it</p> <p>17 says, "So basically our saying, you have to have an ID</p> <p>18 to drive and purchase liquor, but forget about voting</p> <p>19 proof of citizenship"?</p> <p>20 A. I see where a constituent wrote that.</p> <p>21 Q. Okay. Does this help refresh your</p> <p>22 recollection whether you received communications from</p> <p>23 either constituents or other persons not in the</p> <p>24 legislature expressing concern about noncitizen voter</p> <p>25 fraud?</p>	<p style="text-align: center;">292</p> <p>1 A. I want to be very clear --</p> <p>2 MR. BRISSENDEN: Objection to the extent</p> <p>3 that the question mischaracterizes the statement --</p> <p>4 Q. (BY MS. PERALES) You may answer.</p> <p>5 A. I am expressing frustration bills did not</p> <p>6 pass. But it doesn't adopt his views.</p> <p>7 Q. Oh, no. I'm certainly not suggesting that you</p> <p>8 were.</p> <p>9 A. I appreciate that.</p> <p>10 Q. But it seems to me that at least at this time</p> <p>11 the issue is on your radar screen in terms of</p> <p>12 communications with either constituents or third</p> <p>13 parties.</p> <p>14 A. What issue?</p> <p>15 Q. The issue of noncitizen voter fraud. Someone</p> <p>16 is writing to you with that concern, you're responding,</p> <p>17 expressing frustration. Would it be fair to say, then,</p> <p>18 that --</p> <p>19 A. No.</p> <p>20 Q. -- the issue was coming up --</p> <p>21 A. No.</p> <p>22 Q. It was not coming up?</p> <p>23 A. Right.</p> <p>24 Q. Okay. Can you explain that answer since we're</p> <p>25 looking at some exhibits?</p>



<p style="text-align: center;">293</p> <p>1 A. Certainly. I represent 140-, -50,000 people, 2 and one individual writes a letter. I have a policy in 3 my office that we respond to every single constituent 4 letter, and this is our response to one of 140-plus 5 thousand people. 6 Q. Uh-huh. Were you a supporter of H.B. 626? 7 A. Absolutely. 8 Q. Okay. And were you frustrated when it didn't 9 pass? 10 A. I was. 11 Q. Okay. And did you share that with Mr. Murphy 12 in Lake Jackson? 13 A. I certainly did. 14 Q. Is Lake Jackson in your district? 15 A. It absolutely is. 16 Q. Okay. So Mr. Murphy is a constituent? 17 A. As I have already stated, yes. 18 Q. Okay. 19 MR. BRISSENDEN: I believe we have been 20 going for about an hour and a half. Can we take a 21 short break? 22 MS. PERALES: Yes. 23 (Recess from 6:44 p.m. to 7:00 p.m.) 24 MS. BERKOWER: Okay. Ms. Perales asked 25 me to make a note that she had to leave to return home</p>	<p style="text-align: center;">295</p> <p>1 Q. What did you mean by "restores our basic 2 principle"? 3 A. I mean what I wrote. 4 Q. Had the basic principle of one person, one 5 vote somehow been abrogated in some way? 6 MR. BRISSENDEN: I would like to instruct 7 the witness that to the extent that that question 8 requires him to divulge mental impressions, analysis, 9 mental thoughts that you had pre-enactment of S.B. 14, 10 in your analysis of S.B. 14, I would instruct you not 11 to answer that question. 12 THE WITNESS: I agree. 13 Q. (BY MS. BERKOWER) You're following his 14 advice? 15 A. Yes, ma'am. 16 Q. You said in Paragraph 3 there, "Despite some 17 of the vocal and misleading rhetoric opposing the voter 18 ID act, this vote is based on a simple and nonobtrusive 19 principle," and you go on to talk about what. 20 What was the vocal and misleading 21 rhetoric that you were referring to? 22 MR. BRISSENDEN: First of all, for 23 clarification, what are you referring to? 24 MS. BERKOWER: The first sentence of the 25 third paragraph.</p>
<p style="text-align: center;">294</p> <p>1 and she passed the witness back to me. 2 EXAMINATION (CONTINUED) 3 BY MS. BERKOWER: 4 Q. So after S.B. 14 passed the House, did you -- 5 do you remember if you issued another one of the 6 Insider's Reports, one of your newsletters to 7 constituents about the bill's passage? 8 A. I'm sure I did. 9 (Exhibit No. 446 marked) 10 Q. (BY MS. BERKOWER) I have what's marked as 11 Exhibit 446. 12 A. Thank you. 13 Q. Do you remember this document? 14 A. Vaguely. 15 Q. What is it? 16 A. It is Insider's Report, Volume 8, No. 7, about 17 House passes voter ID bill, dated March 25th of 2011. 18 Q. And that was after the House passed S.B. 14? 19 A. Correct. 20 Q. Do you see the second line of the first 21 paragraph says, Senate Bill 14, which I co-sponsored, 22 restores the basic principle of one person, one vote 23 within our electoral system by requiring a photo ID to 24 cast ballot"? 25 A. I do.</p>	<p style="text-align: center;">296</p> <p>1 MR. BRISSENDEN: And my instruction to 2 you would be the same. 3 THE WITNESS: I agree. 4 MS. BERKOWER: And to clarify, what was 5 the instruction? 6 MR. BRISSENDEN: The instruction is to 7 the extent that the question requires the witness to 8 disclose his thoughts, his mental impressions, his 9 motivations, his opinions about S.B. 14 and analysis 10 pre-enactment, I would instruct him not to answer. 11 Q. (BY MS. BERKOWER) Okay. Well, maybe I'll ask 12 this: Was the vocal and misleading rhetoric you are 13 referring to there available publicly as part of the 14 public record? 15 A. It could have been at times. 16 Q. Do you remember which vocal and misleading 17 rhetoric is part of the public record? 18 A. Testimony that the bill was to attack people 19 in this country illegally. 20 Q. So rhetoric about noncitizen voting was 21 misleading? Is that what your -- public testimony 22 about noncitizen voters? 23 A. Despite some of the vocal, misleading rhetoric 24 opposing that bill, opposing the voter ID act, this 25 bill is based on the simple and nonobtrusive premise</p>



<p style="text-align: center;">297</p> <p>1 that Texans should provide a photo ID to vote, just as</p> <p>2 they present identification to open a bank account and</p> <p>3 such.</p> <p>4 Q. Okay. And then I think I asked you if any of</p> <p>5 the local and misleading rhetoric you are referring to</p> <p>6 there was part of the public record, and you said yes.</p> <p>7 So which parts of the public record contain the vocal</p> <p>8 and misleading rhetoric that you are referring to</p> <p>9 there?</p> <p>10 A. I don't have the record in front of me. But</p> <p>11 it usually would have been comments made on the floor</p> <p>12 or witnesses who came before committees to testify.</p> <p>13 Q. What were those comments; do you remember?</p> <p>14 A. Not specifically, no.</p> <p>15 Q. And then you said, as you read just now, "This</p> <p>16 bill is based on a simple and nonobtrusive premise that</p> <p>17 Texans should provide a photo ID just as they</p> <p>18 identification to open a bank account, board a plane,</p> <p>19 obtain a fishing license, rent a car, or pick up a</p> <p>20 prescription at the pharmacy."</p> <p>21 Is that accurate -- an accurate reading</p> <p>22 of that?</p> <p>23 A. It is an accurate reading.</p> <p>24 Q. Do you have a right to open a bank account?</p> <p>25 MR. BRISSENDEN: I'm going to object to</p>	<p style="text-align: center;">299</p> <p>1 Q. (BY MS. BERKOWER) Okay. Well, have you ever</p> <p>2 read the US Constitution?</p> <p>3 A. Sure.</p> <p>4 Q. So based on your reading of that -- I'm not</p> <p>5 asking for any legal conclusion -- but do you recall</p> <p>6 anything in there that would give you a constitutional</p> <p>7 right to obtain a fishing license?</p> <p>8 MR. BRISSENDEN: Same objection.</p> <p>9 Q. (BY MS. BERKOWER) You may answer.</p> <p>10 A. I would prefer not to.</p> <p>11 MS. BERKOWER: All right. I'll note for</p> <p>12 the record that answer is nonresponsive.</p> <p>13 Q. (BY MS. BERKOWER) Do you have a</p> <p>14 constitutional right to rent a car?</p> <p>15 A. Again, you could argue you do.</p> <p>16 MR. BRISSENDEN: Same objection.</p> <p>17 Q. (BY MS. BERKOWER) Would you argue that you</p> <p>18 do?</p> <p>19 MR. BRISSENDEN: Same objection.</p> <p>20 Q. (BY MS. BERKOWER) Are you not going to answer</p> <p>21 the question?</p> <p>22 A. That is correct.</p> <p>23 Q. Do you have a constitutional right to pick up</p> <p>24 prescriptions at the pharmacy?</p> <p>25 A. Again, you could argue you do.</p>
<p style="text-align: center;">298</p> <p>1 extent the question as vague.</p> <p>2 Q. (BY MS. BERKOWER) You can answer that.</p> <p>3 A. I don't understand the question.</p> <p>4 Q. Do you have a constitutional right to vote?</p> <p>5 A. You do.</p> <p>6 Q. Do you have a constitutional right to open a</p> <p>7 bank account?</p> <p>8 A. I don't believe it's stated in the</p> <p>9 constitution.</p> <p>10 Q. Do you have a constitutional right to board a</p> <p>11 plane?</p> <p>12 A. Some people would argue you might.</p> <p>13 Q. Do you have a constitutional right to obtain a</p> <p>14 fishing license?</p> <p>15 A. Again, some people might argue you do.</p> <p>16 Q. Would you?</p> <p>17 A. That gets into speculation.</p> <p>18 Q. You may speculate.</p> <p>19 MR. BRISSENDEN: I'm going to instruct</p> <p>20 the witness not to speculate.</p> <p>21 MS. BERKOWER: Well --</p> <p>22 MR. BRISSENDER: I object to the question</p> <p>23 to the extent it requires him to speculate. It also</p> <p>24 requires the witness to -- it calls for a legal</p> <p>25 conclusion, and I object on those grounds as well.</p>	<p style="text-align: center;">300</p> <p>1 Q. What would those arguments be?</p> <p>2 MR. BRISSENDEN: Same objection, legal</p> <p>3 conclusion.</p> <p>4 THE WITNESS: I agree with the objection.</p> <p>5 MS. BERKOWER: Okay. That answer is</p> <p>6 nonresponsive. I would ask the witness to answer the</p> <p>7 question presented, please.</p> <p>8 Q. (BY MS. BERKOWER) Are you refusing to answer?</p> <p>9 A. Could you repeat the question.</p> <p>10 Q. Do you have a constitutional right to pick up</p> <p>11 a prescription at the pharmacy?</p> <p>12 MR. BRISSENDEN: Same objection. To the</p> <p>13 extent that the witness has not conducted an analysis</p> <p>14 to make that determination, he may not be able to</p> <p>15 answer the question.</p> <p>16 Do you know if you are able to answer the</p> <p>17 question?</p> <p>18 THE WITNESS: I do not.</p> <p>19 Q. (BY MS. BERKOWER) So is your answer you don't</p> <p>20 know if you have a constitutional right to pick up a</p> <p>21 prescription at the pharmacy?</p> <p>22 A. My previous answer is I believe there are</p> <p>23 people who would argue they do.</p> <p>24 Q. Well, I'm not asking about other people. I'm</p> <p>25 asking about you. Do you believe that you have a</p>



<p style="text-align: center;">301</p> <p>1 constitutional right to pick up a prescription at the</p> <p>2 pharmacy?</p> <p>3 MR. BRISSENDEN: My objection would be</p> <p>4 the same, if you are able to answer. If you don't</p> <p>5 know, you don't know.</p> <p>6 THE WITNESS: I don't know.</p> <p>7 Q. (BY MS. BERKOWER) Do you know anyone who has</p> <p>8 made such arguments, that you have a constitutional</p> <p>9 right to do any of the things we have just discussed,</p> <p>10 other than vote?</p> <p>11 A. I actually do.</p> <p>12 Q. Who are those people?</p> <p>13 A. Constituents of mine.</p> <p>14 Q. Which constituents?</p> <p>15 A. I don't have the names in front of me.</p> <p>16 Q. Are you aware of any existing document or</p> <p>17 report that identifies how many Texas voters are in</p> <p>18 possession of a concealed handgun license? And I will</p> <p>19 limit that to the public record.</p> <p>20 MR. BRISSENDEN: Thank you.</p> <p>21 THE WITNESS: Am I aware of one?</p> <p>22 Q. (BY MS. BERKOWER) Yes.</p> <p>23 A. I'm sure one exists but I'm not aware of it.</p> <p>24 Q. What makes you sure it exists?</p> <p>25 A. Because we keep records here in the State of</p>	<p style="text-align: center;">303</p> <p>1 during the legislative debate on S.B. 14 that helps</p> <p>2 form -- well, I'll leave it there -- during the</p> <p>3 legislative debate on S.B. 14.</p> <p>4 Do you want me to restart that question?</p> <p>5 A. Please.</p> <p>6 Q. Could you identify each report or analysis</p> <p>7 that was given to House members as part of the public</p> <p>8 record during the legislative debate on S.B. 14?</p> <p>9 A. I can't, no.</p> <p>10 Q. Do you remember receiving such reports?</p> <p>11 A. I don't know which ones you are referring to.</p> <p>12 I mean, I certainly receive information. I don't know</p> <p>13 specifically what reports or what information that I</p> <p>14 have.</p> <p>15 Q. Do you believe that S.B. 14 will have a</p> <p>16 negative impact on minority voters?</p> <p>17 MR. BRISSENDEN: Objection, privileged.</p> <p>18 Instruct the witness not to answer.</p> <p>19 Q. (BY MS. BERKOWER) Are you aware of any</p> <p>20 publicly available studies or analysis that would</p> <p>21 support your position that S.B. 14 would enhance public</p> <p>22 confidence in elections? I did limit the question to</p> <p>23 the public record.</p> <p>24 A. I don't specifically know, but I believe some</p> <p>25 have been presented.</p>
<p style="text-align: center;">302</p> <p>1 Texas of those licenses.</p> <p>2 Q. Are you aware if there is any publicly</p> <p>3 available document that says how many minority Texans,</p> <p>4 black or Hispanic, are in possession of a concealed</p> <p>5 handgun license?</p> <p>6 MR. BRISSENDEN: Again, your question is</p> <p>7 unlimited to what is in the public record.</p> <p>8 MS. BERKOWER: Yes. I said any publicly</p> <p>9 available document.</p> <p>10 THE WITNESS: I don't know.</p> <p>11 Q. (BY MS. BERKOWER) Are you aware of any</p> <p>12 publicly existing document or report that identifies</p> <p>13 how many minority Texans are in possession of a US</p> <p>14 military card?</p> <p>15 A. Again, I personally am not aware.</p> <p>16 Q. Are you aware of any existing document or</p> <p>17 report that identifies how many Texas voters are in</p> <p>18 possession of a passport?</p> <p>19 MR. BRISSENDEN: Objection. Again, the</p> <p>20 question is not limited to the public --</p> <p>21 Q. (BY MS. BERKOWER) Limited to public record.</p> <p>22 A. Again, I -- these are not areas of my</p> <p>23 expertise. I don't know.</p> <p>24 Q. Could you identify each report or analysis</p> <p>25 that was presented to you as part of the public record</p>	<p style="text-align: center;">304</p> <p>1 Q. Have you publicly supported this lawsuit?</p> <p>2 MR. BRISSENDEN: Objection, vague.</p> <p>3 Q. (BY MS. BERKOWER) Have you issued public</p> <p>4 statements that support Texas' efforts in this lawsuit?</p> <p>5 MR. BRISSENDEN: Same objection.</p> <p>6 THE WITNESS: I probably have, but I'm</p> <p>7 not positive.</p> <p>8 MS. BERKOWER: This will be Exhibit 447.</p> <p>9 (Exhibit No. 477 marked)</p> <p>10 Q. (BY MS. BERKOWER) Do you know what this is?</p> <p>11 A. It appears to be a portion, or maybe in total,</p> <p>12 a post, it seems -- although I'm confused why it would</p> <p>13 be a post at 2:00 a.m. on January 24th of 2012 -- in</p> <p>14 The Facts news. I think it would have been a news</p> <p>15 article, but it doesn't appear to be.</p> <p>16 Q. What is the title of this?</p> <p>17 A. Well, it's confusing. The title is "Voter ID</p> <p>18 push has Bonnen's backing," but it's presented as</p> <p>19 posted Tuesday, January 24th, 2012, at 2:00 a.m. It</p> <p>20 seems to be incomplete.</p> <p>21 Q. Okay. Well, does this document quote you?</p> <p>22 A. It does.</p> <p>23 Q. Does it quote you about this lawsuit?</p> <p>24 A. It states, "State Representative Dennis Bonnen</p> <p>25 fully supports Texas Attorney General Greg Abbott's</p>



<p style="text-align: center;">305</p> <p>1 request to a federal court Monday to clear the way for</p> <p>2 the state's Voter ID law as the state waits to hear</p> <p>3 from the Department of Justice." And then in quote it</p> <p>4 says, "We have no choice," Bonnen said, "His hand" --</p> <p>5 and "his" would be referring to Attorney General Greg</p> <p>6 Abbott -- "was forced by the complete lack of action</p> <p>7 by the Department of Justice."</p> <p>8 MR. BRISENDEN: For the record, we will</p> <p>9 object to the use of Exhibit 447 to the extent that it</p> <p>10 is an incomplete article.</p> <p>11 Q. (BY MS. BERKOWER) How do you know it's</p> <p>12 incomplete?</p> <p>13 A. I remember viewing the article and there was a</p> <p>14 lot more than this to it.</p> <p>15 Q. Okay. Well, I guess we're unaware that it was</p> <p>16 incomplete and we will do our best to locate a more</p> <p>17 complete exhibit. But is this an accurate quote of</p> <p>18 what you said?</p> <p>19 A. Absolutely, yes, ma'am.</p> <p>20 Q. When you said "the complete lack of action by</p> <p>21 the Department of Justice" --</p> <p>22 A. Uh-huh.</p> <p>23 Q. -- what action were you referring to?</p> <p>24 A. The lack of.</p> <p>25 Q. What action, though? What were you expecting</p>	<p style="text-align: center;">307</p> <p>1 Q. Why not?</p> <p>2 A. Because I don't believe it's completely,</p> <p>3 totally, and absolutely at the discretion of the State</p> <p>4 of Texas Attorney General. I believe there are other</p> <p>5 factors that have influence on the timeline.</p> <p>6 Q. Even though Texas is filing the suit?</p> <p>7 A. Even though.</p> <p>8 Q. What other factors were you referring to just</p> <p>9 now? You said there are other factors at play?</p> <p>10 MR. BRISENDEN: To the extent that</p> <p>11 question requires you to divulge information that you</p> <p>12 may or may not have received during communications with</p> <p>13 your lawyers, I instruct you not to answer.</p> <p>14 THE WITNESS: I'll follow your</p> <p>15 instruction.</p> <p>16 Q. (BY MS. BERKOWER) When you said that some</p> <p>17 studies or analyses that support your position that</p> <p>18 S.B. 14 will enhance public confidence in elections,</p> <p>19 can you say when those studies or analyses were</p> <p>20 presented? And I'm referring only to the public</p> <p>21 record.</p> <p>22 A. I believe specifically -- I could be wrong</p> <p>23 about this, but I think in 2009, a good bit of analysis</p> <p>24 and report was presented to the House committee on</p> <p>25 elections about what had occurred in the state of</p>
<p style="text-align: center;">306</p> <p>1 the Department of Justice to do?</p> <p>2 A. I was expecting the Department of Justice to</p> <p>3 have taken action long before January 24th of 2012.</p> <p>4 Q. To do what? What was the Department of</p> <p>5 Justice going to do?</p> <p>6 A. They should have precleared or moved forward</p> <p>7 in the courts by that time.</p> <p>8 Q. What do you mean move forward in the courts?</p> <p>9 A. If that was the direction that was going to be</p> <p>10 chosen.</p> <p>11 Q. Are you aware that the attorney general is</p> <p>12 not -- is the defendant in this action, not the</p> <p>13 plaintiff?</p> <p>14 A. I am aware.</p> <p>15 MR. BRISENDEN: Just for clarification,</p> <p>16 you are referring to which attorney general?</p> <p>17 MS. BERKOWER: Sorry. The United States</p> <p>18 Attorney General.</p> <p>19 Q. (BY MS. BERKOWER) Sorry. The United States</p> <p>20 Attorney General is the defendant in this action. So</p> <p>21 to the extent that pre-clearance is sought through the</p> <p>22 courts, the timing of that lawsuit is left to the State</p> <p>23 of Texas. Are you aware of that?</p> <p>24 A. I don't know if I would agree in total with</p> <p>25 that statement.</p>	<p style="text-align: center;">308</p> <p>1 Georgia, and that there was increased participation in</p> <p>2 elections after they had passed and implemented their</p> <p>3 voter identification law.</p> <p>4 Q. Okay. Do you recall earlier today I asked you</p> <p>5 if you were familiar with a decision in the Supreme</p> <p>6 Court case Crawford versus Marion County Election</p> <p>7 Board?</p> <p>8 A. I don't know if you asked me that or not. I</p> <p>9 don't remember.</p> <p>10 Q. A Supreme Court case about Indiana's voter ID</p> <p>11 law?</p> <p>12 A. I vaguely recall. I mean, six hours and</p> <p>13 45 minutes ago or somewhere in there you may have asked</p> <p>14 about that. I don't remember what --</p> <p>15 Q. Okay. Well, I think --</p> <p>16 THE WITNESS: Did she ask me or did she</p> <p>17 ask you about that?</p> <p>18 Q. (BY MS. BERKOWER) I think you testified</p> <p>19 earlier you were not familiar with that decision.</p> <p>20 MR. BRISENDEN: Objection to the extent</p> <p>21 that it mischaracterizes his testimony. I believe</p> <p>22 there were some instructions that were given in terms</p> <p>23 of instructing the witness not to answer.</p> <p>24 Q. (BY MS. BERKOWER) Okay. Well, I think</p> <p>25 then --</p>





<p style="text-align: center;">309</p> <p>1 MR. BRISSENDEN: I believe that's been</p> <p>2 covered.</p> <p>3 Q. (BY MS. BERKOWER) -- you said that there was</p> <p>4 nothing -- you were limited to speaking about</p> <p>5 information you received about the case, and -- that</p> <p>6 was not privileged, and there was no information you</p> <p>7 could provide that was not privileged. Is that an</p> <p>8 accurate summary of what happened?</p> <p>9 MR. BRISSENDEN: Objection. The court</p> <p>10 reporter and the transcript will speak for itself.</p> <p>11 Q. (BY MS. BERKOWER) Okay. Well, this is</p> <p>12 Exhibit 448.</p> <p>13 (Exhibit No. 448 marked)</p> <p>14 Q. (BY MS. BERKOWER) Do you know what this</p> <p>15 system?</p> <p>16 A. It appears to be an incoming correspondence</p> <p>17 from a constituent.</p> <p>18 Q. What's the date on it?</p> <p>19 A. 4/30 of 2008.</p> <p>20 Q. What is this constituent asking you about?</p> <p>21 A. She writes, In light of the recent US Supreme</p> <p>22 Court decision on a state law for voter IDs, will there</p> <p>23 be a bill introduced in Texas soon to require IDs for</p> <p>24 voting?"</p> <p>25 Q. Do you remember receiving this?</p>	<p style="text-align: center;">311</p> <p>1 you asked me about this morning doesn't suggest that</p> <p>2 I'm familiar and aware of that case to the extent of</p> <p>3 discussing it in a legal proceeding with you here</p> <p>4 today.</p> <p>5 Q. Okay. But you're responding to her --</p> <p>6 A. I am.</p> <p>7 Q. -- question will there be a bill introduced in</p> <p>8 Texas soon to require IDs for voting in light of the</p> <p>9 Supreme Court case?</p> <p>10 A. Correct.</p> <p>11 Q. And you wrote, "Given that this issue was of</p> <p>12 great importance during the 2007 legislative session, I</p> <p>13 assure you that there will once again be a bill</p> <p>14 introduced next session to address voter fraud."</p> <p>15 A. Uh-huh.</p> <p>16 Q. Is that accurate?</p> <p>17 A. Absolutely.</p> <p>18 Q. And you thanked her for her inquiry regarding</p> <p>19 future legislation in response to the Supreme Court's</p> <p>20 ruling in Crawford. Is that accurate?</p> <p>21 A. I stated, "Any time you wish to visit about</p> <p>22 this issue or any other state matter, please do not</p> <p>23 hesitate to call on me. It is always a pleasure to</p> <p>24 hear from you." That's how I end a lot of my letters.</p> <p>25 Q. Okay. And I should have directed you. It's</p>
<p style="text-align: center;">310</p> <p>1 A. Not particularly, no. I'm not suggesting I</p> <p>2 didn't, but you're asking if I personally recall it,</p> <p>3 and I don't personally recall it.</p> <p>4 (Exhibit No. 449 marked)</p> <p>5 Q. (BY MS. BERKOWER) This is Exhibit 449.</p> <p>6 A. Very good.</p> <p>7 Q. Do you know what this is?</p> <p>8 A. It appears to be a letter dated April 19th of</p> <p>9 2008 back to my constituent who sent me the previous</p> <p>10 correspondence. Which is somewhat peculiar because it</p> <p>11 appears to be written the day before this says we</p> <p>12 received her letter.</p> <p>13 Q. Okay. And did you write this letter back to</p> <p>14 her?</p> <p>15 A. A member of my staff would have, yes.</p> <p>16 Q. And based upon what you testified to earlier,</p> <p>17 there is a good chance you reviewed this before it went</p> <p>18 out?</p> <p>19 MR. BRISSENDEN: Objection, to the extent</p> <p>20 that it mischaracterizes testimony from previous -- as</p> <p>21 to that question.</p> <p>22 Q. (BY MS. BERKOWER) You review most things that</p> <p>23 go out of your office?</p> <p>24 A. I do. And because I reviewed a letter in</p> <p>25 April of 2008 that made note of a Supreme Court case</p>	<p style="text-align: center;">312</p> <p>1 my fault. The first paragraph says, "Thank you for</p> <p>2 your inquiry regarding future state legislation in</p> <p>3 response Supreme Court's ruling in Crawford."</p> <p>4 A. Sure. That's what it says.</p> <p>5 Q. And then directly after that, you explain that</p> <p>6 "Given this issue was of great importance during the</p> <p>7 2007 legislative session, I assure you there will once</p> <p>8 again be a bill introduced in the next session to</p> <p>9 address voter fraud." Is that accurate?</p> <p>10 A. It is accurate. And we have discussed many of</p> <p>11 those bills already.</p> <p>12 Q. So would it be fair to say that around the</p> <p>13 time of Crawford you were aware of -- you were aware of</p> <p>14 requests from constituents to introduce future voter</p> <p>15 identification legislation in response to Crawford?</p> <p>16 MR. BRISSENDEN: Can you read the</p> <p>17 question back?</p> <p>18 (The requested portion was read)</p> <p>19 MR. BRISSENDEN: As I understand that</p> <p>20 question as being posed, the question is asking whether</p> <p>21 or not you're aware of constituent correspondence. And</p> <p>22 so with that, you may answer.</p> <p>23 THE WITNESS: Was I aware of it on</p> <p>24 April 29th of 2008? Yes. Was I aware of it sitting</p> <p>25 here today, no.</p>



<p style="text-align: center;">313</p> <p>1 Q. (BY MS. BERKOWER) Well, I was just asking</p> <p>2 around the time that the decision was issued were you</p> <p>3 aware of constituents, you know, contacting your office</p> <p>4 about the case and about subsequent voter ID</p> <p>5 legislation.</p> <p>6 MR. BRISENDEN: And for the record, it</p> <p>7 may help the witness, do you know when the opinion was</p> <p>8 issued?</p> <p>9 THE WITNESS: I have no idea when it was</p> <p>10 issued.</p> <p>11 MS. BERKOWER: That's nonresponsive.</p> <p>12 MR. BRISENDEN: Well, I think it's</p> <p>13 relevant for purposes of him being able to answer the</p> <p>14 question.</p> <p>15 THE WITNESS: I think to answer the</p> <p>16 question you're wanting to make issue of a Supreme</p> <p>17 Court ruling that I am not familiar with or very aware</p> <p>18 of. The response that you see in this letter is much</p> <p>19 more about the fact that I was very aware of the</p> <p>20 ongoing issue of voter ID and legislation dealing with</p> <p>21 voter ID in Texas dating back, as I stated in the</p> <p>22 letter, to the 2007 session and the fact that it would</p> <p>23 continue to be an issue moving forward.</p> <p>24 Q. (BY MS. BERKOWER) Okay. But this letter</p> <p>25 indicates that you are aware of it -- of the Supreme</p>	<p style="text-align: center;">315</p> <p>1 Q. Is that the person the letter is addressed to</p> <p>2 or the letter --</p> <p>3 A. It is addressed to him.</p> <p>4 Q. Who wrote the letter?</p> <p>5 A. It appears I did, although it's not on the</p> <p>6 letterhead or anything of that sort.</p> <p>7 Q. Does it look like a response to a constituent</p> <p>8 communication to you?</p> <p>9 A. It does.</p> <p>10 Q. Do you see the second full paragraph that</p> <p>11 starts "Given that I have"?</p> <p>12 A. Yes.</p> <p>13 Q. It says, "Given that I have witnessed hours of</p> <p>14 extensive testimony from experts on this issue over the</p> <p>15 past several sessions, I appreciate the opportunity to</p> <p>16 address your questions regarding the legislature's</p> <p>17 efforts to restore the basic principle of one person,</p> <p>18 one vote in the State of Texas."</p> <p>19 Did I reread that accurately?</p> <p>20 A. You did read it correctly.</p> <p>21 Q. What hours of extensive testimony from experts</p> <p>22 on this issue are you referring to?</p> <p>23 A. I would be referring to the hours in 2009 when</p> <p>24 the House elections committee, which has been well</p> <p>25 established today I was a member of, had, I believe, at</p>
<p style="text-align: center;">314</p> <p>1 Court case because you mention it specifically by name</p> <p>2 and you wrote this letter?</p> <p>3 A. Certainly. And a member of my staff, who is</p> <p>4 charged with making sure they intelligently and</p> <p>5 accurately respond to letters, did the research,</p> <p>6 understood the case, simply made one sentence reference</p> <p>7 to it, and we sent the letter out. Does that make me</p> <p>8 an expert and highly knowledgeable? It does not.</p> <p>9 Q. I'm not asking if you were an expert or highly</p> <p>10 knowledgeable. I asked if you were aware of</p> <p>11 constituents writing in to you and you responding about</p> <p>12 the Supreme Court case and subsequent voter ID law.</p> <p>13 A. Obviously I was aware --</p> <p>14 MR. BRISENDEN: Objection to the extent</p> <p>15 that question [inaudible].</p> <p>16 (Exhibit No. 450 marked)</p> <p>17 Q. (BY MS. BERKOWER) This is Exhibit 450. Do</p> <p>18 you recognize this?</p> <p>19 A. I do.</p> <p>20 Q. What is this?</p> <p>21 A. It appears to be a letter from a very</p> <p>22 interesting man --</p> <p>23 Q. Who is it from?</p> <p>24 A. -- who lives in Clute.</p> <p>25 George Betony.</p>	<p style="text-align: center;">316</p> <p>1 least two days of hearings. And pretty much one of</p> <p>2 those days was completely filled, meaning, God, 10,</p> <p>3 12 hours, largely with expert testimony.</p> <p>4 Q. Okay.</p> <p>5 A. And then in 2011, at this point in time I had</p> <p>6 chaired the select committee, which, again, we have</p> <p>7 well established and well discussed here today. And</p> <p>8 that hearing had had -- was, ironically, much shorter</p> <p>9 but had had -- I don't remember the specific number,</p> <p>10 but I believe around eight or ten expert witnesses who</p> <p>11 had testified for many hours that day. So that's what</p> <p>12 I would be referring to.</p> <p>13 Q. Do you remember the names of any of these</p> <p>14 experts?</p> <p>15 A. I do not, but they are all in the record.</p> <p>16 Q. So those two days of testimony are the only</p> <p>17 testimony you're referring to in this letter?</p> <p>18 A. Well, what I'm referring to in this letter,</p> <p>19 given that I have witnessed hours of extensive</p> <p>20 testimony -- and I have just explained to you that</p> <p>21 there were probably, combined, anywhere from eight to</p> <p>22 14 hours of testimony, that is what I'm referring to.</p> <p>23 And I'm referring only to expert testimony, not even</p> <p>24 the testimony of citizens who chose to come and testify</p> <p>25 at their own will.</p>



<p style="text-align: center;">317</p> <p>1 Q. Okay. You said a minute ago that George 2 Betony was a -- you characterized him as -- 3 A. As interesting. 4 Q. Why do you characterize him that way? 5 A. Because he invited me to come speak to a group 6 that he's a part of, and I was invited to speak as his 7 state representative. And I always accept those 8 invitations and am appreciative of them. And he called 9 me every Friday evening around 8:00 for about six 10 months to ask if I was going to attend his Saturday 11 morning meeting, until I finally had to very politely 12 explain to him for about the 20th time that I simply 13 came when he asked me to be a speaker and I had not 14 joined and did not intend to join his group, and that 15 he needed to quit calling my home at 8:00 or 8:30 on 16 Friday night to check and see if I would be there the 17 following morning. 18 Q. What meeting was that? 19 A. I forget the name of the group. I think it 20 was actually -- it's -- it was connected to a church in 21 Freeport, and it's a men's group that meets on Saturday 22 mornings. 23 Q. What types of issues does this men's group -- 24 A. Having only attended once as their speaker, as 25 their local state representative, I couldn't speak to</p>	<p style="text-align: center;">319</p> <p>1 MR. BRISSENDER: That's far enough. I 2 believe there is no question pending at this time. 3 MS. BERKOWER: No, I was in the middle of 4 a sentence when you interrupted me. 5 MR. BRISSENDER: We could ask the court 6 reporter to read it back. 7 MS. BERKOWER: I would like to finish the 8 sentence that was going to end with a question. 9 Moreover, we take issue with the lengthy amount of time 10 you've used to not make your objections, consider your 11 objections, which we have said nothing about. There is 12 well settled case law that provides that the seven-hour 13 rule has exceptions when counsel takes that time away 14 from the examining counsel. 15 So in our view -- and on top of that we 16 also were provided with documents today in the early 17 afternoon that we have been required to examine during 18 the deposition as it goes on that should have been 19 produced to us months ago. And these all relate to 20 Representative Bonnen. And we plan to leave the 21 deposition open and to seek more time to examine him on 22 these documents if necessary given their overdue 23 production. 24 Now, can we have Representative Bonnen 25 please answer my last question -- or I'll finish the</p>
<p style="text-align: center;">318</p> <p>1 what they hear about. 2 Q. What did you speak about when you went that 3 time? 4 A. Being their state rep and general issues of 5 the day that I would be dealing with. 6 Q. Do you see in the second -- in the third 7 paragraph -- 8 A. Yes. 9 Q. -- three from the bottom, the last sentence of 10 that paragraph -- 11 A. Yes. 12 Q. -- reads -- talks about the identification 13 certificate available. 14 A. Its availability with a free photo ID. 15 Q. In S.B. 14, yes. 16 A. Yes. 17 Q. This availability of a free voter ID addresses 18 your concern of costs in obtaining a photo ID. Do you 19 see that? 20 A. Yes, I do. 21 MR. BRISSENDER: Do you have the time? 22 THE REPORTER: It's seven hours right now 23 from when we started. 24 MS. BERKOWER: I would like to finish the 25 question.</p>	<p style="text-align: center;">320</p> <p>1 question when you read back the sentence before I was 2 interrupted. 3 MR. BRISSENDER: I believe the question 4 was whether or not he saw or read that. 5 And I think you did answer that question, 6 did you not? 7 THE WITNESS: The question was did I see 8 the line in the third paragraph, and I answered yes. 9 MR. BRISSENDER: And I believe from the 10 court reporter we're now past the time of seven hours. 11 And so under the rules and agreement, I believe we're 12 finished here. 13 MS. BERKOWER: As a professional 14 courtesy, would you be willing to let me ask my 15 question? 16 MR. BRISSENDER: How many more questions 17 do you have? 18 MS. BERKOWER: I was going to ask him 19 about this one line that I just asked him if he saw, 20 and a couple of questions on that topic, and then we 21 can leave, according to you. 22 MR. BRISSENDER: If you have one or two 23 more questions about the exhibit, we will accommodate 24 you in that regard. 25 Q. (BY MS. BERKOWER) Okay. So you said you see</p>



<div>321</div> <div><div>1</div><div>that this availability of a free photo ID addresses</div><div>2</div><div>your concern of cost in obtaining a photo ID?</div><div>3</div><div>A. Correct.</div><div>4</div><div>Q. Didn't we discuss earlier that S.B. 14 may</div><div>5</div><div>require documents that cost money in order to obtain</div><div>6</div><div>the free photo ID?</div><div>7</div><div>MR. BRISENDEN: Objection, asked</div><div>8</div><div>answered. We have covered that already.</div><div>9</div><div>Q. (BY MS. BERKOWER) Do you remember when we</div><div>10</div><div>discussed that and you agreed that if the underlying</div><div>11</div><div>documentation costs money, then the ID would</div><div>12</div><div>effectively cost money?</div><div>13</div><div>A. Respectfully, I think that I was answering the</div><div>14</div><div>question of a constituent who said that it could cost</div><div>15</div><div>somebody money to go get an ID, and he was unaware of</div><div>16</div><div>the fact that in the legislation a free ID is offered</div><div>17</div><div>to someone.</div><div>18</div><div>Now, are you correct that earlier we</div><div>19</div><div>discussed that there could be underlying documents</div><div>20</div><div>requiring -- could be, not guaranteed, but could be --</div><div>21</div><div>that may cost money, that is accurate. Does that make</div><div>22</div><div>the statement in this letter I'm inaccurate? It does</div><div>23</div><div>not.</div><div>24</div><div>Q. Does it make it slightly misleading?</div><div>25</div><div>A. Not at all.</div></div>	<div>323</div> <div><div>1</div><div>THE WITNESS: Thank you.</div><div>2</div><div>(Proceedings concluded at 7:35 p.m.)</div><div>3</div><div></div><div>4</div><div></div><div>5</div><div></div><div>6</div><div>-- SIGNATURE REQUIRED --</div><div>7</div><div></div><div>8</div><div></div><div>9</div><div></div><div>10</div><div></div><div>11</div><div>* * * * *</div><div>12</div><div></div><div>13</div><div></div><div>14</div><div></div><div>15</div><div></div><div>16</div><div></div><div>17</div><div></div><div>18</div><div></div><div>19</div><div></div><div>20</div><div></div><div>21</div><div></div><div>22</div><div></div><div>23</div><div></div><div>24</div><div></div><div>25</div><div></div></div>
<div>322</div> <div><div>1</div><div>MS. BERKOWER: Okay. We're leaving this</div><div>2</div><div>open and pending due to the fact that we got these</div><div>3</div><div>documents late and also due to the lengthy objections</div><div>4</div><div>of counsel.</div><div>5</div><div>MR. BRISENDEN: For the record,</div><div>6</div><div>documents that were produced today were produced</div><div>7</div><div>actually early, before the Court's order that required</div><div>8</div><div>us to produce it today.</div><div>9</div><div>Ms. Westfall communicated with counsel in</div><div>10</div><div>our office, and we made every effort to get these</div><div>11</div><div>documents that she requested to you today before</div><div>12</div><div>noontime so you could ask him questions this afternoon,</div><div>13</div><div>which you have now had them for about seven hours to</div><div>14</div><div>answer those questions. And so we accommodated your</div><div>15</div><div>request and we got -- we focused on those documents.</div><div>16</div><div>We had them here at noontime today.</div><div>17</div><div>And, so in that regard, I don't believe</div><div>18</div><div>the characterization that we were somehow late in</div><div>19</div><div>producing them is accurate.</div><div>20</div><div>MS. BERKOWER: You're late in producing</div><div>21</div><div>them in that you improperly withheld them and we were</div><div>22</div><div>required to seek a court order in order to obtain them.</div><div>23</div><div>That's what I was referring to.</div><div>24</div><div>MR. BRISENDEN: I disagree with your</div><div>25</div><div>characterization.</div></div>	<div>324</div> <div><div>1</div><div>CHANGES AND SIGNATURE</div><div>2</div><div>WITNESS NAME: DENNIS BONNEN</div><div>3</div><div>DATE OF DEPOSITION: JUNE 6, 2012</div><div>4</div><div>PAGE</div><div>LINE</div><div>CHANGE</div><div>REASON</div><div>5</div><div></div><div>6</div><div></div><div>7</div><div></div><div>8</div><div></div><div>9</div><div></div><div>10</div><div></div><div>11</div><div></div><div>12</div><div></div><div>13</div><div></div><div>14</div><div></div><div>15</div><div></div><div>16</div><div></div><div>17</div><div></div><div>18</div><div></div><div>19</div><div></div><div>20</div><div></div><div>21</div><div></div><div>22</div><div></div><div>23</div><div></div><div>24</div><div></div><div>25</div><div></div></div>



<p style="text-align: center;">325</p> <p>1 I, DENNIS BONNEN, have read the foregoing</p> <p>2 deposition and hereby affix my signature that same is</p> <p>3 true and correct, except as noted above.</p> <p>4 _____</p> <p style="text-align: center;">DENNIS BONNEN</p> <p>5</p> <p>6 THE STATE OF _____ )</p> <p>7 COUNTY OF _____ )</p> <p>8 Before me, _____, on this day personally</p> <p>9 appeared DENNIS BONNEN, known to me (or proved to</p> <p>10 me under oath or through _____) (description</p> <p>11 of identity card or other document) to be the</p> <p>12 person whose name is subscribed to the foregoing</p> <p>13 instrument and acknowledged to me that he executed</p> <p>14 the same for the purposes and consideration therein</p> <p>15 expressed.</p> <p>16</p> <p>17 Given under my hand and seal of office, this</p> <p>18 _____ day of _____, _____.</p> <p>19</p> <p>20 _____</p> <p style="text-align: center;">NOTARY PUBLIC IN AND FOR</p> <p>21 THE STATE OF _____</p> <p>22</p> <p>23 My commission expires: _____</p> <p>24 _____ No Changes Made _____ Amendment Sheet(s) Attached</p> <p>25 STATE OF TEXAS VS. ERIC HOLDER, ET AL</p>	<p style="text-align: center;">327</p> <p>1 oral deposition is a true record of the testimony given</p> <p>2 by the witness;</p> <p>3 That the original deposition was delivered to</p> <p>4 ^ ATTORNEY.</p> <p>5 That a copy of this certificate was served on</p> <p>6 all parties and/or the witness shown herein on</p> <p>7 _____.</p> <p>8 I further certify that pursuant to FRCP Rule</p> <p>9 30(3) that the signature of the deponent:</p> <p>10 _____ was requested by the deponent or a party</p> <p>11 before the completion of the deposition and that the</p> <p>12 signature is to be before any notary public and</p> <p>13 returned within 30 days from date of receipt of the</p> <p>14 transcript. If returned, the attached Changes and</p> <p>15 Signature Page contains any changes and the reasons</p> <p>16 therefore:</p> <p>17 _____ was not requested by the deponent or a</p> <p>18 party before the completion of the deposition.</p> <p>19 I further certify that I am neither counsel</p> <p>20 for, related to, nor employed by any of the parties or</p> <p>21 attorneys in the action in which this proceeding was</p> <p>22 taken, and further that I am not financially or</p> <p>23 otherwise interested in the outcome of the action.</p> <p>24</p> <p>25</p>
<p style="text-align: center;">326</p> <p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE DISTRICT OF COLUMBIA</p> <p>3 STATE OF TEXAS, )</p> <p>4 Plaintiff, )</p> <p>5 VS. )</p> <p>6 ERIC R. HOLDER, JR., in )</p> <p>7 his official capacity as )</p> <p>8 Attorney General of the )</p> <p>9 United States, )</p> <p>10 Defendant, )</p> <p>11 ERIC KENNIE, ET AL, )</p> <p>12 Defendant- )</p> <p>13 Intervenor, )</p> <p>14 TEXAS STATE CONFERENCE OF ) CASE NO. 1:12-CV-00128</p> <p>15 NAACP BRANCHES, ) (RMC-DST-RLW)</p> <p>16 Defendant- ) Three-Judge Court</p> <p>17 Intervenor, )</p> <p>18 TEXAS LEGISLATIVE BLACK )</p> <p>19 CAUCUS, et al, )</p> <p>20 Defendant- )</p> <p>21 Intervenor, )</p> <p>22 VICTORIA RODRIGUEZ, et )</p> <p>23 al, )</p> <p>24 Defendant- )</p> <p>25 Intervenor. )</p> <p>REPORTER'S CERTIFICATION OF THE ORAL</p> <p>DEPOSITION OF DENNIS BONNEN</p> <p>JUNE 6, 2012</p> <p>I, Donna Wright, a Certified Shorthand</p> <p>Reporter and Notary Public in and for the State of</p> <p>Texas, hereby certify to the following:</p> <p>That the witness, DENNIS BONNEN, was duly</p> <p>sworn by the officer and that the transcript of the</p>	<p style="text-align: center;">328</p> <p>1 Certified to by me on this, the _____ day of</p> <p>2 _____, 2012.</p> <p>3</p> <p>4</p> <p>5</p> <p>6 _____</p> <p>7 Donna Wright, CSR No. 1971</p> <p>8 Expiration Date: 12-31-2012</p> <p>9 3101 Bee Caves Road</p> <p>10 Centre II, Suite 220</p> <p>11 Austin, Texas 78746</p> <p>12 (512) 328-5557</p> <p>13 Firm Registration 283</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>





329

1 COUNTY OF TRAVIS )  
2 STATE OF TEXAS )

3 I hereby certify that the witness was notified  
4 on \_\_\_\_\_ that the witness has 30 days or  
5 (\_\_\_\_\_ days per agreement of counsel) after being  
6 notified by the officer that the transcript is  
7 available for review by the witness and if there are  
8 changes in the form or substance to be made, then the  
9 witness shall sign a statement reciting such changes  
10 and the reasons given by the witness for making them;  
11 That the witness' signature was/was not returned as  
12 of \_\_\_\_\_.

13 Subscribed and sworn to on this, the \_\_\_\_\_ day  
14 of \_\_\_\_\_, 2012.

15  
16 *Donna Wright*  
17



18 Donna Wright, Texas CSR No. 1874  
19 Expiration Date: 12-31-2012  
20 3101 Bee Caves Road  
21 Centre II, Suite 220  
22 Austin, Texas 78746  
23 (512) 328-5557  
24 Firm Registration 283  
25



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